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HISTORY

OF THE

REPUBLIC

OF THE

UNITED STATES OF AMERICA,

AS TRACED IN THE WRITINGS OF

ALEXANDER HAMILTON

AND

OF HIS COTEMPORARIES.

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BY

JOHN C. HAMILTON.

VOLUME IV.

"Neque enim est ulla res, in qua propius ad Deorum numen virtus accedat humana quam civitates aut condere novas, aut conservare jam conditas."—*Cic. de Repub.*

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PREFACE.

HAVING given, in the previous volumes of this work, a history of the origin and rise of the Republic of the United States of America, "as traced in the writings of Alexander Hamilton and of his cotemporaries," it is now proposed, by an exhibition of facts derived from these and other sources of information, to present a larger portraiture of the organization and early administrations of the present National Government, of its domestic and foreign policy, of its parties and chief actors, than has hitherto been delineated.

The great standard work on American history is justly admitted to be that of Chief Justice Marshall, entitled, "The Life of George Washington." Deriving his statements chiefly from the papers of that illustrious patriot, preserved by himself, with studious care, as monuments of the history of a people he had so well served, nothing can be more generally authentic.

But, its author being a participant in many of the events which had occurred, and restrained by his elevated station, is seen to have been very guarded and heedful in his presentment of the motives, conduct, and characters of men then filling high places. Indeed, at the time he wrote, a fuller presentation would have been as difficult as unwise. His volumes, intrinsically valuable, had the effect of drawing forth

counter statements, expressly preserved "as testimony against" them.*

These since published counter statements, intended to be posthumous, contrasted with those of Marshall, confirm, instead of impairing, his authority; and cast a strong light upon the framers of them.

Still it was obvious that much remained to be told. The misrepresentations as to Hamilton, freely ventured, after his decease, in these counter statements, and industriously repeated since, show his great importance in the view of his adversaries, who, though not the avowed, were alike the adversaries of Washington; and demanded an elucidation, also, of his opinions, policy, and purposes, not only as essential to the development of truth; but as a vindication, so intimately were they allied, of both these eminent personages; and, indeed, of the sacred patrimony of our national honor. This has been, in a measure, effected by the publication of his "Works and Correspondence."

During the compilation of these works, it became apparent, that the labor, to be more useful, must be extended to a study of other productions of those adversaries, many of them unpublished. To enable the accomplishment of this end, a formal authority was addressed by the Joint Library Committee of Congress to the Secretary of State, authorizing the use of the papers purchased by the Government—known as those of Jefferson, Madison, and Monroe.

Copious extracts of these papers were made, critically collated, and specially authenticated in my presence. This precaution was the more fortunate, as a large part of those from the pen of Jefferson are not embraced in the subsequent official edition of his works; and, in respect to the papers of Madison, for the reason, that the originals of his letters, and also his copies of them, prepared under his own eye, are both preserved in the State department; and that the copies differ

* Jefferson's Works, iv. 443. "Anas." ed. 1830.

from the originals, the parts in the latter, marked in brackets, being omitted in these copies. The necessity of giving to the public these omitted parts was manifest, as they are explanatory of the whole, showing the spirit, tone, and objects of the writer. Nor, having become parts of the public archives of the nation, would the omission to use them have been warranted.

As to other sources of information, with the exception of such as are of general notoriety, in the instances in which they are referred to, the precise references are stated.

While acknowledging my obligations to the careful compiler of the "American State Papers," a repertory, the completion of which, it is to be hoped, Congress will not permit to be delayed, I would also make pardonable mention of private kindnesses bestowed, in the contribution of materials, by many persons. Among these I have the pleasure of alluding to Governor Swain of North Carolina; the Hon. Henry D. Gilpin, Attorney-General of the United States; President Van Buren; and to my friends, the Hon. R. I. Ingersoll of Connecticut, and the recently deceased, able and lamented statesman, William L. Marcy, Secretary of State, by whom no service was declined.

But, most especially, would I pay grateful homage to the Hon. Horace Binney. The advice and assistance of this accomplished scholar, this distinguished lawyer, this sagacious counsellor, this eminent and excellent gentleman, have been freely accorded to me, with a most delicate, ever present interest, through a series of years, at a time of life when most men, who have done less for the world, feel that their task is ended—a life, as beautiful in its calm setting, as it has been brilliant and useful in its earlier hours.

New York, June 8, 1859.

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THE HISTORY

OF THE

REPUBLIC OF THE UNITED STATES.

CHAPTER LVI.

To form, of a feebly connected Federal association, extended along the shores of a vast wide continent, one people—an American Nation; to reduce to peaceful cooperation discordant States; and to establish over them a Supreme Representative Government, founded on the power and sovereignty of that United people—capable of promoting and perpetuating their happiness; to substitute order for anarchy—had been the noble aim, and great end of Hamilton's life.

All previous efforts to attain such a result had failed. It was regarded as an impossibility, but it had been accomplished—accomplished by their voluntary adoption of a written Constitution, defining its own powers, limits and rights, and providing a mode for its own amendment.

A new era is begun in the political institutions of the World! Almost a miracle had been worked. The palsied frame of society had been restored to health; but, it must perform its functions, before the wisdom and benevoence of the vivifying influence could be felt and seen.

"I consider," Hamilton now observed, "the business of America's happiness, as yet to be done."

As jealousy of power, the consequence of its unwise distribution and irregular exercise, had been the chief source of past calamities, it was, in his judgment, the part of true wisdom, to proceed without delay, to the organization of the Executive and Judicial Departments.

Thus, the new Government would stand amid the nations, a harmonious whole, prepared, to act upon a well considered, comprehensive system; and in its domestic and foreign relations, confidence would be conciliated. Nor was this his only motive. The Constitution was full of principles. Its preamble had declared the large results, those principles, in a happy concert, were to accomplish. It was of immeasurable importance to avoid the jargon of the Confederation—to raise, at once, the standard of feeling to the height of those principles—thus, to purify and elevate the political morals, and give a new direction to the public opinion of the country.

Instead of this wise, large, commanding policy, a different course was pursued; and, even before the inauguration of the President, an attempt was made deeply to commit this nation, as to its exterior relations.

Immediately after adopting rules for its proceedings, the House of Representatives formed a Committee on the state of the Union. A resolution was then introduced by Madison, for the establishment of an impost.

Similar, to that of the Congress of seventeen hundred and eighty-three, it imposed specific duties on a few enumerated articles of general consumption, and an ad valorem duty of five per cent. upon others, superadding a tonnage duty; which gave a preference to American over foreign vessels, and *discriminated in favor of those nations, with whom the United States, "were in treaty."*

It has been seen, that a discrimination in favor of those in treaty, was a favorite object with the Legislature of Virginia, when discussing an enlargement of the Commercial powers of the Confederation. It had been the favorite policy of Jefferson* and was now again urged by Madison.

Solicitous, that on its entrance upon the theatre of nations, the new Government should present itself free from all prejudices; and, looking to a well matured, permanent revenue system, to be adjusted by him to solid fiscal and economical arrangements, the friends of Hamilton advised a general, though temporary plan.

This substitute was proposed by Lawrence, the Representative of the City of New York, on the second day of the debate.—As motives to such a course, he stated the want of materials, necessary to enable them to form a competent judgment on this subject, and the difficulty of methodizing the requisite provisions for ascertaining and collecting the Revenue.

In lieu of the impost proposed by Madison, he suggested, as a *temporary* provision, that a general ad valorem duty should be charged on *all* imported articles, avoiding any specification.

The leading members from Pennsylvania pressed the encouragement of manufactures, and offered a resolution, enumerating the articles they proposed "to encourage and protect." Madison, avowing his original intention to

* Jefferson to Washington, from Paris, December 4th, 1788. "Our navigation law (if it be wise to have any) should be the reverse of that of England. Instead of confining *importations* to home bottoms, or those of the *producing* nations; I think, we should confine *exportations* to home bottoms, or to those of nations *having Treaties with us.*" He then refers to his policy at Paris, which he anticipated, would supplant *British* vessels, and "call so many of *French* and American into service."

confine his views to Revenue, urged, that their duty was to protect national, as well as local interests; that the States having surrendered the power of protection, had a right to expect it from the General Government. While approving freedom of industry as a general principle, he instanced discriminating tonnage duties as exceptions, to protect the navigation, and foster manufactures.—Various discriminating duties were proposed—some avowedly prohibitory. During this discussion, petitions came in from various quarters, in favor of a Revenue system, having expressly for its object, the fostering of "Domestic Industry."

A proposition soon after made, for a discrimination in favor of France, brought up the great question as to the Foreign policy of the United States. Lawrence remarked, that their present situation inculcated a perfect neutrality. "Nations in Treaty," could not supply them with shipping. Hence, that of Great Britain must be employed to transport our produce. This discrimination would operate, as a bounty to foreigners—as a tax on ourselves—would be regarded as retaliatory. The chief export of the Eastern States would be incumbered with duties in Spain and Portugal, and in the commerce with Great Britain. Negotiation was preferable to a war of regulations.

Madison admitted the insufficiency of our shipping, and, in concurrence with the views of Jefferson, said, "if we did not need a navy, he would open our ports to the whole world. But, if we would employ our vessels in commerce, enough should be had to form a school for seamen—to lay the foundation of a navy, and to encounter successfully the interference of foreign powers. Public expectation was in favor of it. He denounced and defied the policy of England. By associations, they could resist it.

What grievous wound can Britain inflict? Restrictions on the West India trade would soon bring her to her reason. Our allies merit some advantages to place them on more equal terms." Benson, a member from New York, answered: Our Treaties stipulated no preferences. It should solely be a question of the public interest. England, said Wadsworth, gives us a better market than any other country. Our trade enjoys great advantages with her. Where is there a substitute? Shall we prohibit a competition for our carrying trade between the several maritime powers? In reply; it was alleged, that France had recently passed an edict to naturalize American vessels —that we owed her a debt of gratitude, never to be forgotten. Admitting this obligation, it was observed—this would not justify so heavy a charge on the American people, merely to promote the commerce of France! The Treaty with France had produced no corresponding advantages—the edict referred to, no benefit. The extent of the commerce with England* was the result of causes, not to be interfered with—nor to be beneficially controlled by legislation. If, it was too large, it would be contracted. Its extent proved its advantages. The credits she gave, were so much capital loaned to American enterprise. This debate exhibited all the excitement—collision of interests and conflict of prejudices, Hamilton had deprecated; and gave unpropitious indications. The discriminating clauses, in despite of the superior force of argument against them, were retained by a large majority.

On the final reading of the bill, Madison, without notice, proposed a section, limiting its duration—in conformity with the policy he had espoused n eighty-three, in

* In 1790—arrivals in New York, 688 American; 288 British; 14 Spanish; 8 French, and 8 Portuguese vessels—total, 1,003.

opposition to Hamilton, who contended for "permanent funds," as the only basis of an adequate provision for the public credit. He pronounced an unlimited revenue law incompatible with the spirit of the Constitution, and the principles of Republicanism. It would justly alarm the apprehensions of the people, to impose taxes to exist perpetually, subject to the adventitious control of future administrations without appropriations.

Ames* asked, are gentlemen afraid no appropriations will be made; or, if made, improperly? If so, delay the bill—but do not limit its duration. What is meant by temporary and perpetual? No law is really perpetual. A temporary act is to be passed as an experiment. Three periods are proposed for its duration—one year; several; and until the public debt is paid. Is it wise or safe to revive the topics of distinct interests and partial politics, once a year? If, for several years, will it be possible to re-loan the foreign debt on such precarious funds? With a permanent revenue, it may be re-loaned at a reduced interest. So, with the Domestic debt. Can

* Of this distinguished person, who soon became the leader in the House of Representatives—his father was a learned physician, descended from an eminent divine; and his mother, the daughter of a respectable farmer. To her, a widow, in narrow circumstances, Fisher Ames was chiefly indebted for his fine tone of character, and for his education. He was a graduate of Harvard, of which distinguished institution he was, after his retirement from public life, chosen President. It is beautifully and most truly said of him, by his son: "His spotless youth brought blessings to the whole remainder of his life. It gave him the entire use of his faculties, and all the fruit of his literary education. Its effects appeared in that fine edge of moral feeling which he always preserved; in his strict and often austere temperance; in his love of occupation, that made activity delight; in his distaste for public diversions, and his preference of simple pleasures. Beginning well, he advanced with unremitted steps in the race of virtue, and arrived at the end of life with peace and honor."—Preface to the Works of Fisher Ames, by Seth Ames. Volumes indispensable to a just knowledge of Washington's Administration

this Government secure the creditor on good ground, with a fund, which a few years may annihilate? Credit had made Britain rich and powerful—a despotism could not have it, nor could a pure Democracy; but a wise Republican government ought to have, and might have it, and how? An act not limited would be in force until repealed.

After further debate, his first motion was varied by Madison, but the question was finally taken on the original amendment; and the clause of limitation was approved, only eight members dissenting. The Impost Act was to continue in force until June, seventeen hundred and ninety-six. The Tonnage Act, laying various rates of duty on vessels entered into the United States, from foreign countries; and, in certain cases, in one part of the United States from another, was of indefinite duration. When these bills came before the Senate, concurring with Hamilton's opinions, it inserted in the preamble to the former, a distinct pledge of the revenue, "to the support of the Government, for the discharge of the debts of the United States, and the encouragement and protection of manufactures;" and, it expunged from the latter, the discrimination in favor of "nations having treaties with the United States." The House, after several conferences, assented to these amendments. Thus, restrictions, which would have greatly embarrassed the future administration of the Government, were defeated by the wise interposition of that high conservative body. Madison was much chagrined.* He denounced the Senate.

* Ames to Minot, May 16, 1789, Works, i. 40: "I think, Mr. Madison was chagrined. Spleen at reducing molasses was a part of his motive. He talked very differently of the Senate lately." "The bill passed for seven years; Madison was for twenty-five, which was a very ridiculous comment on his own principles." "I believe that he is not at his ease on this point, and I

It was during this discussion, that Washington entered upon his great office.

As he approached the Hall of Congress, he was seen to retain the firm, elastic step of a yet vigorous soldier's frame. His thin hair of hazel brown, covered with powder, was clubbed behind, in the fashion of the day. His dress was of black velvet. On his side, hung a dress sword; and around his neck a ribbon to which was attached, concealed, a miniature of his wife, worn, it is stated, from his nuptials until his death. "Time," Ames wrote,* "had made havoc upon his face. He addressed the two Houses in the Senate Chamber; it was a very touching scene, and quite of the solemn kind. His aspect grave, almost to sadness; his modesty, actually shaking; his voice deep, a little tremulous, and so low as to call for close attention; added to the series of objects presented to the mind, and overwhelming it, produced emotions of the most affecting kind upon the members. I sat entranced. It seemed to me an allegory, in which Virtue was personified, and addressing those whom she would make her votaries. Her power over the heart was never greater, and the illustration of her doctrine, by her own example, was never more perfect."

think I have seen him struggling to disentangle himself from his own web. He was decided for the Tonnage Acts being *unlimited*. His *former* friends could not see the difference of the cases, and were refractory."

Madison thus writes to Jefferson, May 27, 1789: "The Senate is also abolishing the discrimination in favor of nations in treaty, whereby Great Britain will be quieted in the enjoyment of our trade, as she may please to regulate it, and France, discouraged from her efforts, to a competition which is not less her interest than ours to promote.

"The question was agitated repeatedly in the House of Representatives, and decided, at last, almost unanimously in favor of the same monitory proof, that our new Government is able, and not afraid, to encounter the restrictions of Britain."

* Ames to Minot, May 3, 1789.

After his Address, concluding with an appeal to "the benign Parent of the human race," for his blessings on the measures of the Government; the President, attended by the Senate and the Representatives, proceeded to the beautiful church, St. Paul's, to render thanks for the establishment of a Government—the choice of the people—and to implore the divine protection and guidance.

Washington, being without a Cabinet, addressed a note to Madison, requesting him to prepare his answer to the address of the House of Representatives.* The preceding day, he had asked Hamilton's advice as to the etiquette to be observed by the President.† A similar request was made to other members of the Government.

It was finally settled at a Cabinet meeting, of which all the members concurred.

Soon after his inauguration, the Impost and Tonnage bills were presented to the President. He approved them officially, though he inclined to the contemplated discrimination in favor of nations in treaty with this country.

* "New York, May 5th, 1789. My Dear Sir:—Notwithstanding the conviction I am under of the labor, which is imposed upon you by individuals, as well as public bodies—yet, as you have begun so, I could wish you to finish the good work, in a short reply to the Address of the House of Representatives, (which I now enclose,) that there be an accordance in the business. Thursday 12 o'clock, I have appointed to receive the Address—the proper place is with the House to determine. As the first of every thing in *our situation* will serve to establish a precedent, it is devoutly wished on my part, that these precedents may be fixed on true principles. With affectionate regard, I am ever yours."

This is followed by a second note:—"Mr. Madison having been so obliging as to draw the answer to the Address of the House of Representatives, G. W. would thank him for doing the same, to that of the Senate. If he receives it any time this day or to-morrow, it will be sufficient. Sunday, 7 o'clock, A. M."

† May 5, Hamilton's Works, iv. 1.

During their pendency, a bill to regulate the collection of the duties was reported, and, after being recommitted and amended became a law.* A proposition to adopt the State laws for this purpose had been laid on the table. An act for registering and clearing vessels, and regulating the coasting trade, was soon after passed; and a law was enacted for the establishment of light-houses, beacons, buoys, and public piers.

The constitutions of the Executive Departments now occupied Congress. Benson offered a resolution that there should be three. This was withdrawn, to give place to a substitute proposed by Madison, "that to aid the SUPREME EXECUTIVE in the discharge of his important trust, there should be three subordinate departments established"—a Secretary for the department of Foreign Affairs; a Secretary for the department of the Treasury; and a Secretary for the War Department;—the respective heads of these departments to be nominated by the President, and appointed by him, with the advice and consent of the Senate—but to be removed by the President alone.

The discussion of this resolution gave rise to many important considerations. After some preliminary debate, it was referred to a committee, consisting of a member from each State; and separate bills were reported as to each department. Those of foreign affairs and war, by Baldwin, of Georgia.

On the discussion of the act constituting a Department of Foreign affairs, it was observed, that the Constitution had provided specifically, only for the removal of the Judges of the Supreme Court; but, as it had associated

* One of the provisions of this act defined the rates at which foreign coin and currencies were to be estimated—the pound sterling of Great Britain being valued at four forty-hundreths of a dollar, in conformity with its then received value of four shillings and sixpence sterling.

the President with the Senate in the appointing of officers, the power of removal should be jointly exercised also. No such power was, either directly or impliedly, given by the Constitution to the President,—though his powers are thereby declared. It was in direct opposition to the clause providing for impeachments—contained in it the seeds of Royal Prerogative—might lead to a despotism. The President had the command of the army—would he not have the Treasury under his thumb? The Legislature had nothing but the Constitution to go by, and the moment a deviation was made, the House would be taking an arbitrary stride towards an arbitrary government. While these views were combated earnestly by others, Madison took the lead in opposition to them. He said: "If the proposed clause is merely a declaration of the Constitution, it can do no harm. If it relates to a doubtful point, it rests with the whole Legislature to give an explanation; and, if the Constitution is totally silent, *Congress may use its discretion.* The power is a high and important one, and, therefore, merits a full and free discussion.

"When it is considered, that the Chief Magistrate is to be selected from the mass of the citizens, by the united suffrages of three millions of people, notwithstanding the weakness incident to a popular election, he could not suppose, that a vicious and bad character would be chosen. . . . . It is, evidently, the policy of the Constitution, that great responsibility should be lodged in the President with respect to the Executive departments; but this responsibility is abated or destroyed, so far as the officers to whom the duties of this department are committed, are not amenable to him."

Having argued, that the association of the Senate, in the power of removal, would make these officers rely

upon its favor, and might produce a cabal against the President, which would destroy his responsibility, and defeat the expectations of the people, in an independent executive branch; he observed, that, so far as particular powers are invested in different and particular departments, a different appropriation of them is not warranted by the Constitution. "The Executive power is in the hands of the President. Is there any particular exception to this general principle? There is *one* exception. The Constitution has declared, that, in the appointment of officers, the Senate shall have a voice; unless, in cases of inferior officers, the law shall otherwise direct. Has Congress a right to extend this exception? No. If the Constitution has, in general, vested *all executive powers* in one branch, the Legislature has no right to diminish or modify them, any farther than is expressly provided by the Constitution. As to the doctrine, that, when an officer is appointed, he can be removed only by impeachment—this would give a permanency to the executive system, which would be more incompatible with the genius of Republicanism, than any principle that could be advocated. The danger to liberty—the danger of despotism, has never been found to spring so much from the difficulty of procuring virtuous men to fill office, as, from the difficulty of displacing those found unworthy of trust. A doctrine which stands most in opposition to the principle we have contended for, is, that the power to make appointments *implies*, in its own nature, a power of removal, as incidental to it. If nothing more was said in the Constitution, than, that the President, with the Senate, shall appoint officers, there would be force in the observation, that the power of dismissing results from the power of appointing. There is another part of the Constitution as explicit as that on which the gentlemen found

their doctrine. It is that which declares, that 'the executive power shall be vested in the President of the United States.' The association of the Senate with the President, in the exercise of one particular executive function, is an exception to this general principle, and exceptions to general rules are ever taken strictly.

"The President is required to take care that the laws be faithfully executed. If the faithful execution of the laws is required at his hands, the Constitution must have intended, that he should have that species of power in all its extent, necessary to accomplish the purposes of his department. Vest this power in the Senate, jointly with the President, and you destroy that great principle of responsibility, which was intended for the security of liberty itself. Vest the power in the President—the chain of dependence is this: the officers of every grade will be dependent on the President, and he again on the people, who possess, in aid of their great original power, the decisive engine of impeachment. But, if the power be vested in the Senate, on the principle, that the power to displace, is necessarily connected with the power to appoint, a very different prospect presents itself. Where shall we find the responsibility? Where does it terminate? The dependence of each inferior officer will be on his superior, and he ultimately on the Senate, a permanent body—a body, by the irregular mode of their election, existing, in reality, forever—a body that possesses that portion of aristocratic power which the Constitution has wisely established. Unless you keep the Executive distinct from the Senate, you render it merely subservient to the other branch—you destroy its responsibility, and defeat the purposes for which our Executive was established."

These opinions of the nature of the Government were

strongly controverted. Smith of South Carolina, referring to Madison, observed: "An honorable member had said, that all powers incidental to the Executive department, are vested in the President of the United States. What powers are Executive, or incidental to the Executive department, depended upon the nature of the Government. The Legislatures of Republics appoint to office. What power is exercised by the EXECUTIVE OF MONARCHIES? Executive powers must take their complexion from the nature of the Government. Can the President establish corporations? He cannot—yet these powers are exercised, as *executive powers*, by the King of Great Britain. There is a consistency in a Monarchy, in the exercise of the power of appointment and removal at the King's pleasure. In Great Britain, this is the prerogative of the throne."

But, Gerry remarked, "the chief magistrate, under the Constitution of the United States, is a different character. If he has such power, it can only be made useful to himself, by being the means of procuring him a re-election. Such unbounded power vitiates the principles of the Constitution."

"Strike out that clause"—Page exclaimed, "and leave your officers responsible to the President, but not abject tools to him. What! authorize, in a free Republic, by law too, by your first act, the existence of a dangerous royal prerogative in your chief magistrate? Where honor and virtue ought to be the support of your Government, will you infuse, and cherish meanness and servility in your citizens, and insolence and arbitrary power in your chief magistrate? Does increasing the power, and multiplying the dependants of the President, diminish his responsibility?"

Near the end of the debate, a resolution to limit the

duration of the bill to two years, for the reason, that, by the gradual withdrawal of the United States from all European intercourse, this establishment would be superfluous, was negatived.

During the discussion of this important question, the galleries were crowded, and a deep interest exhibited. It was terminated, by a motion to strike out the clause, declaring the power of removal to be in the President, which was seconded by Madison, in order, that this power might not be supposed to exist by mere Legislative grant; but should be clearly implied to be vested in the President, by the Constitution. This amendment prevailed in despite of the opposition of Ames, who, though in favor of the sole exercise of this power by the President, did not concur in the opinion, that all executive power was vested in the President; nor that this power was an incident to that of appointment. "The power of removal," he remarked, "is *incident* to *Government*; but not being distributed by the Constitution, it will come before the Legislature, and, like every other omitted case, must be supplied by law."

This subject was discussed with still greater earnestness in the other branch of the Legislature, as a question involving one of the most important of its powers. The Senate, for greater caution, reinstated the clause, declaring the power of removal to be in the President, which was only carried by the casting vote of the Vice-President—a vote by which the salutary check of the Senate upon the power of the Executive Magistrate, was abandoned—a vote, as will be seen, in accordance with his political tenets.

The act to establish the Department of War imposed on its head such duties relative to the Military and Naval forces, and to Indian affairs, as the President should

intrust to him, agreeably to the Constitution; but, in all other particulars, its provisions were similar to those of the department of Foreign Affairs.

The bill constituting the TREASURY DEPARTMENT was essentially different. The other departments were rendered directly and solely amenable to the President. That of the Treasury, though by the Constitution regarded as an "Executive Department," was, by the act creating it, more immediately connected with the Legislative body; and, thus possessed a twofold relation, being, in some respects, under the control of the Executive as the head of a department; and, in others, having a more direct responsibility to Congress.

Early in the year seventeen hundred and seventy-six, prior to the Declaration of Independence, Congress passed a resolution, that, "A standing committee of five be appointed for superintending the Treasury." This was the germ of the Fiscal Department. Two months after, a "Treasury office of Accounts" was instituted, under the superintendence of this Standing Committee. In September, seventeen hundred and seventy-eight, were established the offices of "Comptroller," "Auditor," "Treasurer," and "two Chambers of Accounts," to consist each "of three Commissioners," to be annually appointed by Congress. In seventeen hundred and seventy-nine, on the eleventh of February, the office of "Secretary of the Treasury" was created. Its duties were not defined; and it was of short duration, followed in the same year, as has been stated, by the establishment of a "Board of Treasury," composed of five commissioners, of whom three were permitted to hold their seats, only six months in continuance—of an Auditor General—Treasurer—two Chambers of Accounts, and six Auditors. The interference of the Board of Treasury in their respective duties,

led to the necessity of declaring, that Board paramount to all the other branches of the Treasury department. The inefficiency of this system led Hamilton to advise the appointment of single heads of departments; which, after much delay, were established—among these a "Minister of Finance." To fill this office, as stated, Hamilton was in view. On the seventh of February, seventeen hundred and eighty-one, it was resolved, that there be a "Superintendent of Finance—a Secretary of War, and a Secretary of Marine." Soon after, the "Board of Treasury," with its adjuncts, was abolished; and, "in aid of the Superintendent of Finance and his Assistant Secretary—a Comptroller, Register, Treasurer, and Auditors," were authorized to be appointed, and their duties prescribed. After nearly three years of arduous, effective service, the Superintendent of Finance, driven to this course by the impotence of Congress, resigned. What remained of financial duty was consigned, on the twenty-eighth of May, seventeen hundred and eighty-four, to a new "Board of Treasury," a spectre which vanished with the Confederation. Yet, in despite of all this experience, there were those whose views clung to the "good, old, and venerable fabric." *

Thus, the first question raised upon the bill organizing the Treasury, was, whether this great department should be intrusted to one or to several individuals? A motion was made to expunge the words "Secretary of the Treasury," and insert "three Superintendents" of the Treasury. In favor of a plural establishment, the early practice of the Congress of the Confederation was adduced; and a "Treasury Board" was strenuously urged by Gerry. But the advantages which had resulted from

* Jefferson to Adams, ii. 266.—Randolph's Jefferson.

the appointment of a single person to the superintendence of the Finances, left no doubts, in other minds, as to the policy which ought to prevail. Should the House decide in favor of one officer, an objection was raised by the same individual, who had been a member of that Board, which he deemed insuperable, "that the duties were too numerous and complicated to be discharged and executed by any one man in the United States." The House, nevertheless, resolved, that these important trusts should be confided to one person.

The next point discussed, and with much earnestness, arose upon a motion to expunge a clause, which made it "the duty of the Secretary of the Treasury to digest and prepare plans for the improvement and management of the revenue, and for the support of public credit."

Colonel Page, of Virginia, deprecated zealously the undue influence which the exercise of this authority would give over the Legislature of the country. He was supported by Livermore, Hartley, and Gerry. It was denounced by the latter, as conferring upon an individual the power of originating money bills; and, as defeating that clause of the Constitution, which vested this sole right in the House of Representatives; "an alarming circumstance," he said, "which would raise a clamor among the people." The clause was sustained by Sedgwick, Boudinot, Lawrence, Ames. Madison closed the debate. "He could not conceive, where the danger lay, that some gentlemen apprehended. The words objected to are similar to those used in an ordinance passed by Congress, in seventeen hundred and seventy-eight. In a subsequent ordinance to establish a Treasury Board, the same powers are annexed to that Board, as belong to the office of Finance—so that this power now exists in the Treasury Board, so far as that has an existence.

There is a small probability, though it is but small, that the power may carry some influence; but let us compare this with the danger that will accrue from the want of this power. In my opinion, there is more danger of a bad administration, from the want of this power, than can result from all the influence which the Secretary can create. More has resulted from the want of this officer, than from all other causes. There will be a responsibility in point of reputation—a responsibility to the public opinion. The communications from the President will always be accompanied with allusions to revenue. If the doctrine is true, that, to make *propositions* is to originate, the President may be said to originate money bills. *I am of opinion, that the duty should be particularly enjoined.* I do not fear his influence; I am more afraid of our own ignorance—of our instability and misinformation. The advantage of a single man of abilities will be superior to that of having an hundred such men to perform the same duty. Upon the principle of the objection, we must shut our doors, and not accept even the reports of Committees."

The whole force of the argument was in favor of retaining this clause, and it was approved by a decisive vote. A similar jealousy of a single officer at the head of the Fiscal Department was also seen in the Senate, an unsuccessful proposition being offered, to substitute for a Secretary of the Treasury, three Superintendents of Finance. After some amendments to the other parts of this bill, it became a law.*

* His duties, instead of being such as "the President should assign" to him, were prescribed. He was to make report, and give information to either branch of the Legislature, *in person*, or in writing, respecting all matters referred to him by the Senate, or House of Representatives, or which shall appertain to his office; and, generally, to perform all such services relative to the finances, as he shall be directed to perform.

When the act constituting the department of Foreign Affairs was reported; the expediency of a Home Department was suggested. This idea was relinquished; and a bill passed, near the end of the session, declaring, that the Department of Foreign Affairs should be denominated the Department of State; its principal officer to be called "Secretary of State," to whom the additional duties were assigned, of recording, publishing, and authenticating the acts of Congress; and of affixing the seal to all Civil Commissions. It is stated, that, on motion of a member from Virginia,* it was proposed that this officer should only be removable by the Senate.

Before the final disposition of this subject, the House had been engaged in a long-continued debate upon a Report as to the compensations of the Executive officers, and of the members of the Legislature. That of the President, after various sums had been proposed, was established at twenty-five thousand dollars. A question arose, whether the Vice-President should receive a daily allowance as President of the Senate, or a fixed compensation as an Executive officer. The former mode was first urged by a member from Virginia. Madison differed from his colleague—contending, that, as he was the apparent successor of the President, he must withdraw his attention from all other pursuits, and therefore should receive a permanent salary. The Report proposed the same rate of daily pay to the Senators, and to the Representatives. An amendment was offered, giving a larger sum to the Senators. This was warmly opposed by Jackson, Seney, and White, who contended that the members of both Houses were equally engaged in the service of their country, as Legislators; that, in the ancient Commonwealths, an artificial and political distinction existed between the

* White.

Senators and the people; but in the United States, there was no difference in the public estimation. Madison, Page and Sedgwick, supported the amendment. Madison declared himself in favor of the discrimination. He said, "it was evidently contemplated by the Constitution, to hold out some *distinction* in favor of the Senate, as an inducement for men of staid and fixed principles, whom habits of retirement might render adverse from the active scenes of public life, to devote the experience of years, and the acquisitions of study, to the service of their country. Except something of this kind is done, we may find it difficult to obtain proper characters for the Senate, as men of enterprise and genius will naturally prefer a seat in the House, which will be considered as a more conspicuous situation." Page also stated, "that the Senate ought to have permanent salaries, that they might be placed in an eligible and independent situation." Anticipating the failure of the amendment, Washington wrote to Madison—"Being clearly of opinion, that there ought to be a difference in the wages of the members of the two Houses of the Legislature, would it be politic or prudent in the President, when the bill comes to him, to send it back, with his reasons for non-concurring?"

A few days after the organization of the Senate, a committee was appointed to report "what style or title it will be proper to annex to the offices of President and Vice-President; if any other than those given in the Constitution." Richard Henry Lee, of Virginia; Izard, of South Carolina, and Dalton, of Massachusetts, were the committee of the Senate. The House appointed a committee, at the instance of the Senate; Egbert Benson, Ames, Madison, Charles Carroll, and Sherman. This joint committee reported, that, "it is not proper to annex any

style or title" to these offices, other than those "expressed in the Constitution." This report was disagreed to by the Senate; a proposal that the President should be addressed, as "His Excellency," in conformity with the first Report of the Committee of Detail of the Federal Convention, was rejected; and a new committee was immediately appointed to act upon the original resolution. To this committee, Richard Henry Lee, Ellsworth, and Johnson were elected. It being announced, that the House had accepted the Report of the Joint Committee, this new committee was instructed to report as to the title, and to confer with such a committee as the House should appoint. The new committee now reported to the Senate, that, "it will be proper" to address the President as, "His Highness, the President of the United States and Protector of their Liberties." A newly appointed Committee of the House, meanwhile, had reported, that, having already used the address of "President of the United States," they deemed it improper "to confer" with that of the Senate. The same day, thus baffled, the Senate passed a resolution, asserting the propriety of annexing "a respectable title to the office of President; but, desirous of preserving harmony, they think it proper, for the present, to act in conformity with the practice of the House." Thus, the proposal failed. During part of these proceedings, the House was in a ferment—"Titles were not warranted by the Constitution,—repugnant to Republican principles, dangerous, vain, ridiculous, arrogant. Not a word was uttered in their favor."*

The States of Virginia and New York, had applied to Congress, to initiate measures for an amendment of the

* Ames to Minot, May 14, 17, 1789. "The business of titles sleeps. It is a very foolish thing to risk much to secure; and I wish, Mr. Adams had been less *undisguised.*"

Constitution. On the eighth of April, Madison wrote to Edmund Pendleton: "The subject of amendments has not yet been touched. From appearances, there will be no difficulty in obtaining reasonable ones. It will depend, however, entirely on the temper of the Federalists, who predominate as much in both branches, as could be wished."

This subject was afterwards brought forward by him, and was referred to a committee, which made an elaborate Report. The amendments proposed in this Report, framed rather with a view to soothe the popular feeling, than from any intention to alter the Constitution in essential points, were adopted with a few substantial modifications.*

Some provisions were sought to be introduced, which gave rise to an earnest discussion. Among these, was one asserting an express right in the people, to *instruct their Representatives.* This was sustained by Gerry, Page, and Tucker, and opposed by Ames, Hartley, and Madison. The latter member observed, that "the existence of this right was at least doubtful. If it be meant, that the people have a right to express their sentiments, or wishes, the principle is true. If, that the Representatives are to be bound by these instructions, it is false. It is said—the people are the sovereign, but who are the people? Is every small district the people? Have the people, in detached assemblies, a right to violate the Constitution, or control the whole sovereign power? This would be setting up a hundred sovereignties in place of one." The proposed amendment was negatived by a large majority.

When the "eighteenth" amendment was considered—

* Ames to Minot, "Upon the whole, it may do some good towards quieting men, who attend to sounds only, and may get the mover some popularity, which he wishes."

dec aring, "that the powers not delegated by this Constitution, nor prohibited by it to the States, are reserved to the States, respectively," an introductory clause was proposed in the words, "all power being derived from the people." To this Madison objected, "as confining the Government within such limits as to admit of no IMPLIED powers. I believe," he said, "that no Government ever existed, which was not necessarily obliged to exercise powers by implication. This question was agitated in the Convention of Virginia. It was brought forward by those who were opposed to the Constitution, and was finally given up by them." "All corporations," remarked Sherman, "are supposed to possess all the powers, incidental to their corporate capacity. It is not in human wisdom to provide for every possible emergency." The motion was negatived.

The amendments proposed by the House of Representatives were deliberately considered in the Senate. After various modifications, they were ultimately embodied in twelve articles, of which eleven were ratified by the States.

It is an interesting fact, that nearly all the more important principles they embody, are to be found in the declaration and amendments, contained in the ratification of the Constitution, submitted by Hamilton to the Convention of New York,* with one exception. This is the important provision, that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Of this wise guard against intolerance, which Hamilton has been seen combating in the Legislature of New York, he was the author, having placed it before the Federal

* Hamilton's Works, ii. 467.

Convention in the seventh article of his plan of a Constitution, though in terms of wider scope. "Nor shall any religious sect, or denomination, or religious test, for any office or place, be ever established by law." It will hereafter appear, that the only subsequent amendment incorporated into the Constitution, emanated from him.

The Senate, in the mean time, were deliberating on a plan for the organization of the Judiciary Department. Hamilton had early recommended the establishment of a "FEDERAL JUDICATURE, having cognizance of all matters of general concern, in the last resort, especially, those in which foreign nations and their subjects are interested."*

The importance of such an Institution seems, at that time, chiefly to have been felt by him, as a mean of preserving the National faith. As the sublime idea of a Supreme National Government, acting upon States and individuals, opened on his thoughts, the necessity of establishing one "Tribunal paramount to the rest, possessing a general superintendence, and authorized to settle and declare, in the last resort, an uniform rule of civil justice"† would be apparent.

But a jurisdiction confined to this great object, was below his ultimate views. As the Constitution of the United States was to be a limited Constitution, it was absolutely necessary, that the Judicial power should be co-extensive with the Legislative, so as to serve, as, a "bulwark against Legislative encroachment." The Constitution was also, to the extent of its powers, to be a supreme law; and, as a direct negative of the State Laws was not to be given, it only remained to vest an "authority in the Federal Courts to overrule such laws, as might be

* In 1783, Hamilton's Works, ii. 231.

† Federalist, No. 22.

in manifest contravention of the articles of Union."* With this intent, in the plan of a Constitution he submitted to the Convention, an appellate jurisdiction was given to a Supreme Court, in all cases, with a few specified exceptions, "in which the *fundamental rights* of the *Constitution* are involved."

It has been seen, that in the resolutions of Virginia, submitted to the Federal Convention, jurisdiction was proposed to be conferred on the judiciary over all "questions, which might involve the National peace and harmony." That this was not intended to mean a final expounding power, in all cases arising under the Constitution, is shown by the fact, that Madison advocated in the Convention, the limitation of the Judicial power to "judiciary cases," declaring, that the "right of expounding the Constitution in cases, not of this nature, ought not to be given to that department."†

Thus, this high conservative provision, which ultimately became a part of the Constitution—a provision absolutely necessary to the supremacy of the National Government, and to the reserved rights of the States and of the People; it was Hamilton's distinction to have originated.

From this commanding fact, from the elevated position he held at the bar, from the extensive reputation he had acquired by his discussion of Constitutional principles, both in the Federal and State Conventions, and as an author of the Federalist, it was supposed he might have preferred to be at the head of the National Judiciary; and plans for its organization were submitted to his consideration.

Among these, one proposed, that the Superior State

* Federalist, No. 80. † Madison's Debates, 1438.

Courts should be embraced in the National system, by delegating to them powers similar to those to be confided to the Inferior Courts of the United States. Hamilton construed the clause of the Constitution, which gave Congress the power to institute Tribunals, inferior to the Supreme Court, as conferring a power, either, to institute new courts, or to authorize it to delegate to the State courts, cognizance of cases arising under the Constitution. He went farther, and, carrying out his large principles, declared, as his opinion, that in every case in which the State Courts were not expressly excluded by the future acts of the National Legislature, they will, of course, take cognizance of the causes to which those acts may give birth.

Madison took a different view. He contended, that to make the State Courts Federal Courts, would be, "to violate the Constitution, by usurping a prerogative of the Supreme Court of the United States, thus making appointments, which are expressly vested in that department, not by *nomination*, but by *description*." *

In the mode of exercising the power of instituting Inferior Courts, Hamilton's suggestion was adopted. He had remarked in the Federalist,† "I am not sure, but that it will be found highly expedient and useful, to divide the United States into four or five, or a half-a-dozen districts, and to institute a Federal Court in each district, in lieu of one in every State." The Senate bill established three great Circuits, each having a Circuit court, to consist of two Judges of the Supreme Court and a District Judge, to be held annually. From these courts an appeal was

* Yet, March 8, 1806, while he was at the head of the Cabinet, certain adjacent county courts, were authorized to take cognizance of the revenue laws in adjacent revenue districts.

† No. 81.

authorized to the Supreme Court, which was to be composed of a Chief Justice and five associate Judges.

The great difficulty that attended the organization of a National Judiciary, arose out of the complex nature of the Federal Government, which Hamilton, in his plan of a Constitution, had endeavored to overcome—the difficulty of establishing an effective, peaceful jurisdiction over the States.

In the Judiciary act* this end was sought, by defining the mode of revising the decisions of the highest State courts, in certain specified cases, by giving to the Supreme Court of the United States, the power of proceeding to a final decision, and of awarding execution. This was felt by Hamilton to be inadequate to its purpose, and he had, in contemplation, an amendment of the Constitution, which would have created an immediate, necessary, indissoluble connection between the State and Federal Judicatories.

* In framing this Act, "Strong, Ellsworth and Paterson, had their full share of the merit." Ames, p. 64.

CHAPTER LVII.

Soon after the adoption of the Constitution by the State of New York, though Hamilton frequently took his seat in the Congress of the Confederation, and, as has been seen, had a principal share in the measures preliminary to the organization of the Government, he resumed his professional labors.

These, after the meeting of the new Congress, were much interrupted. His residence was near the seat of its deliberations, and it was daily frequented by many of the leading members, with whom he held conferences on the interesting subjects of their deliberations.*

Immediately after the President's arrival at the seat of Government, his interviews with Hamilton were frequent, consulting him as to the preliminary questions which would naturally arise, having early announced to him, his intention to place him at the head of the Fiscal Department, the most important and responsible place in the Cabinet.†

* "I remember," said a lady yet alive, "how Hamilton and Madison would talk together in the summer, and then turn, and laugh, and play with a monkey that was climbing in a neighbor's yard."

† "Washington, immediately after becoming President, and before Congress had passed a single act, called on Hamilton, and told him it was his intention to nominate him to the charge of the financial department of the

He is represented to have made this selection, in consequence of a conversation held by him with Robert Morris, the late Superintendent of Finance.* Addressing himself to that individual, to whose services during the War, Washington had been much indebted, he inquired, "What are we to do with this heavy debt?" "There is but one man in the United States," Morris replied, "who can tell you; that is, Alexander Hamilton. I am glad you have given me this opportunity to declare to you, the extent of the obligations I am under to him."†

It appears, that this station had attracted the eye of

Government, as soon as that department should be organized. He called on me, the next day, and asked me if I would consent to wind up his law business, provided his appointment should take place. I remonstrated with him; he admitted, that his acceptance of it would be likely to injure his family, but said, there was a strong impression on his mind, that in the financial department, he could essentially promote the welfare of the country; and this impression, united with Washington's request, forbade his refusal of the appointment." Letter of Robert Troup.

* By the authority of Bishop White, the brother-in-law of Morris.

† "The President's opinion of Mr. Jay's ability, and disposition to serve his country, induced him to ask his acceptance of *any office he might prefer.*"—Life of Jay, i. 274. Not only from the facts previously stated, but from its inconsistency with Washington's character, this statement is believed to be erroneous. As to the *Financial* department, he would naturally have applied to Robert Morris. Jay had never shown any fitness for such a place. He could not have offered him the *War* department, as that must have involved the withdrawal of Knox, a tried soldier, his personal friend, to make room for a civilian. Had Jay been inclined to remain in the State Department, he, doubtless would have been gratified. But this, considerations of policy did not favor. The Southern States, whose hostility to Jay, growing out of his independent conduct as to the Mississippi question, was so recent, were to be soothed, not offended.—Jay's Life, i. 237. Nor could it have been wise, to have filled all the great departments, with persons selected from New England and New York. Marshall states more correctly:—"The President was highly gratified, in believing, that his public duty comported with his private inclinations, in nominating General Knox to the office which had been conferred upon him by the former Government."

Hamilton, for having, in conversation with Governeur Morris, expressed his confidence, that he could restore the Public Credit. Morris remonstrated with him for thinking of so perilous a position, on which calumny and persecution were the inevitable attendants. "Of that," Hamilton answered, "I am aware, but I am convinced, it is the situation in which I can do most good."

The bill to establish the "Treasury Department," was enacted the second of September, and on the eleventh of that month, Hamilton was commissioned as Secretary of the Treasury; and Knox as the head of the War Department. These appointments were welcomed by the intelligent.*

A few days after, on the twenty-fifth, a communication was made to Hamilton by the President, containing a list of candidates for office, in which he observed, "Another paper, which I enclose, will show you how the appointments stand at this time; and, that you may have the matter *fully* before you, I shall add, that it is my *present* intention to nominate Mr. Jefferson for Secretary of State, and Mr. Edmund Randolph, as Attorney-General; though *their acceptance is problematical, especially the latter.*"† This intention was carried into effect.

Immediately after Hamilton entered upon the duties of his office, the Committee of Ways and Means, were discharged from their deliberations, as to the necessary appropriations for the current service; and, he was order-

* The patriot Trumbull, writes, "I almost envy you the friendship of Colonel Hamilton. * * * However, till I have the honor of a personal acquaintance, I will not depose on oath, that he is half so great or good a man, as I think him." December 9, 1789.

† Washington writes, iv. 27: "Mr. Randolph, in this character, I would prefer to any person I am acquainted with, of not superior abilities, from habits of intimacy with him."

ed to report an estimate on this subject, which was done: He was also directed to give a statement of the warrants which had been issued by the late Superintendent of Finance, and by the Board of Treasury. Several petitions were likewise referred to him.

To supply the immediate wants of the Government, he negotiated successive loans with the Bank of New York, and he addressed a letter to the American bankers in Holland, asking a provisional loan of three millions of florins, to be sanctioned by Congress.

The President having occasion to communicate some important matters to Congress, had requested the opinion of Madison, on the fifth of August, "whether an oral or written communication be best. If the first, what mode is to be adopted to effect it. I would thank you, my dear sir," he adds, "for amending the enclosed address, if you have leisure, by adding to or striking out such parts as you may think had better be expunged." Four days after, he stated to him his disinclination to oral communications, and asked an interview with regard to the appointment of Jay, to the bench.

It had been proposed in the Senate, that their advice and consent to appointments, should be given in the presence of the President; and a committee was appointed to confer with him, as to the proper mode of communication in the formation of treaties, and making appointments to offices.

After two conferences, the opinion of the President was adopted, that the rules of the Senate should provide for the reception of either oral, or written propositions; and for giving their consent and advice in either the *presence* or *absence* of the President, leaving him free to use the mode and place, that might be found most eligible and accordant with his other business. With respect to

treaties, the President, at first, met the Senate in their chamber. This mode was soon discontinued.

On the twenty-fourth of September, the Judiciary bill having passed, the bench of the Supreme Court was filled, John Jay being appointed the Chief Justice; and John Rutledge of South Carolina, James Wilson of Pennsylvania, William Cushing of Massachusetts, Robert H. Harrison of Maryland, John Blair of Virginia, Associate Justices.

Harrison, who was at the head of the Judiciary of Maryland, declined this appointment, which drew from Hamilton the following letter: "My dear friend, after having labored with you in the common cause of America, during the late war, and having learnt your value, judge of the pleasure I felt in the prospect of a re-union of efforts in the same cause, for I consider the business of America's happiness as yet to be done.

"In proportion to that sentiment, has been my disappointment at learning that you had declined a seat on the bench of the United States. Cannot your determination, my dear friend, be reconsidered? One of your objections, I think, will be removed; I mean, that which relates to the nature of the establishment. Many concur in opinion, that its present form is inconvenient, if not impracticable. Should an alteration take place, your other objection will also be removed, for you can then be nearly as much at home, as you are now. If it is possible, my dear Harrison, give yourself to us. We want men like you—they are rare in all times. Adieu, your affectionate friend."

On the receipt of this letter, together with one from the President, enclosing the commission which Harrison had returned, he resolved to yield to the wishes of his friends; observing, at the time, "My dear Hamilton presses

me too strongly;" but he soon after died, and his place was filled by a distinguished citizen of North Carolina—James Iredell.

Instances of this kind were rare, but the occasions were numerous in which Hamilton was compelled to perform the unpleasant duty of declining to encourage applicants for office, thereby rendering professed friends, active opponents.

Nor was this his only offence. The refusal to impart a knowledge of the system of finance he intended to recommend, was also a source of dissatisfaction. An occurrence of this kind took place with an officer of distinction, from the State of Virginia. To a letter inquiring the probable value of the domestic debt, and of the indents for interest, the following reply was given:—"My dear friend, I have received your letter of the sixteenth instant. I am sure, you are sincere when you say, you would not submit me to an impropriety. Nor do I know that there would be any in answering your queries. But you remember the saying with regard to Cæsar's wife. I think the spirit of it applicable to every man concerned in the administration of the finances of a country. With respect to the conduct of such men, SUSPICION is ever eagle-eyed, and the most innocent things are apt to be misinterpreted. Be assured of the affection and friendship of—"*

It was necessary, that time should be given for the organization of the Executive Departments. It was hoped, that the amendments of the Constitution recently recommended, and the progress of opinion, would induce Rhode Island and North Carolina, during the recess, to become members of the Union; and, it was feared, that Congress, if it continued in session, might precipitate indigested

* To Colonel Henry Lee.

measures of a more than doubtful policy. These, and other considerations,* rendered it expedient that it should separate. It adjourned on the twenty-ninth of September; laws having been enacted for the Government of the North-western Territory; for the temporary establishment of the Post Office; defining the compensation of the officers of the three great Departments; providing for the negotiation of treaties with the Indians; for the payment of invalid Pensioners; regulating the processes in the Courts of the United States, and making appropriations for the service of the current year.

Hamilton, in the mean time, was devoting his whole thoughts to the public. A subject of paramount importance first occupied his attention. The vote of the House, as to discriminating duties, was an index of the feelings of the people. The Senate had expunged it, but its committee had reported, that it was expedient, to pass an act retaliating the restrictions imposed on the trade of the United States with the European settlements in America.

The views of the President were in unison with those of a great majority of the nation. In a letter to the French Minister, written a short time before his election to the Presidency, Washington stated: "I hope and trust, the ties which connect this nation with France, will be strengthened and made durable. In the mean time, there are three things which, I flatter myself, will counterbalance, on the side of the French commerce, the three advantages, of which I conceive the British merchants to be possessed. The circumstances to which I allude, are, first, the increasing prejudices of this country against a commercial intercourse with England, occasioned by

* Ames, i. 70.—"We shall find business prepared by our great officers, and a weight given to national plans, they have not at present."

provocations, and augmented by impositions on her part; secondly, the facility given, in many instances, by the French Government, for our making remittances in the staple commodities of this country; and, thirdly, the change of taste in favor of articles produced or manufactured in France, which may, indeed, in a great degree, be attributed to the affection and gratitude still felt for her generous interposition in our favor." *

So strong were his opinions on this subject, that he declared, "the opposition of the Senate to the discrimination in the Tonnage bill, so adverse to his ideas of justice, that he should have suffered it to pass silently into a law without his signature, had he not been assured by some members of the Senate, that they were preparing a bill, which would answer the purpose more effectually, without being liable to the objections, and to the consequences which they feared would have attended the discrimination, which was proposed in the tonnage law." †

Under such circumstances, it was of high moment, that other views should govern, and, that an opportunity should be offered to Great Britain to remove the asperity of public feeling.

From the period of the termination of the unsuccessful embassy of Adams, all official intercourse with her had ceased. England had made no diplomatic appointment to the United States; and their dignity forbade a formal mission.

As the American Government was now competent to compel, by its Judicial Tribunals, the fulfilment of the stipulations on its part, it was suggested, that an unofficial communication should be opened with her Ministry, to ascertain whether any, and what objections, existed to her

* Washington's Writings, viii. 417.

† Washington's Writings, iv. 21.

fulfilling the definitive Treaty, and whether she was inclined to a treaty of commerce with the United States on any and what terms? The selection of this agent was a matter of much importance. The President consulted his friends. Jay advised the employment of Doctor Bancroft; Madison urged, that this delicate office should be confided to Jefferson, and strenuously dissuaded the appointment of Gouverneur Morris. After much deliberation, and much misgiving,* Morris was selected; and, on the thirteenth of October, a letter was addressed to him, requesting him to make the unofficial communication previously mentioned.

Two days after, Washington proceeded from New York on a visit through New England, where he was received with the enthusiasm and respect due to his character and station.

Hamilton was now engaged in organizing the great † Department of the Treasury—in establishing a system of accounts, and in framing a general plan for the collection of the revenue, upon the basis of the recent laws.

The arrangement of the Civil Executive Departments prescribed in the ordinance of seventeen hundred and eighty-one, gave the outline of the powers and duties of the Officers of the Treasury, and was closely pursued in the act recently passed, instituting that department.

By the provisions of this act, besides digesting and preparing plans for the improvement and *management* of the Revenue, and for the *support* of the public credit, and preparing and reporting ESTIMATES of the public Revenue

* Washington's Diary, Oct. 8, 1789.

† Three-fourths of the acts of Congress are stated in 1847, to relate to revenue, appropriations of money, and private acts for claims; and, therefore, come under charge of the Treasury Department.

and public Expenditures, it was the duty of the Secretary of the Treasury to superintend the COLLECTION, RECEIPT, and DISBURSEMENTS of the public moneys—all authority for their transfer or disbursement originating with him. He was constituted the exclusive judge of the time and amount of the disbursements to be made, subject to the check of the Comptroller, who, in countersigning the warrants, was jointly responsible with him for the legal appropriation of them. He was subject, also, to the further check of the SETTLEMENT of the accounts of all persons to whom he may have advanced money by the Auditor and Comptroller. All warrants for the payment of money, either into or out of the Treasury, were to be first signed by him, and he was to decide ultimately on the forms of KEEPING the public accounts. He was also, to execute such services relative to the SALE OF LANDS, belonging to the United States, as may be by law required of him.

The duties of the Comptroller, Auditor, Treasurer, and Register, were also specially defined.

As to the COLLECTON of the public moneys: The Duties on Imports and Tonnage, were to be collected by the Collectors of the Customs. The fines, penalties, and forfeitures, by the Marshals, who were to pay them to the Collectors, except those incurred for crimes against the United States, which were to be paid by them directly into the Treasury Department. The Domestic Loans, Duties on Patents, and debts from individuals, were also to be paid immediately into the Treasury. The receipts from the Post Offices were to be remitted from the Deputy Post Office to the Post Master General, who was placed, temporarily, under the supervision of the Secretary of the Treasury.

In the collection of the Customs, the regulations of the

several States, in the first instance, governed the Collectors.*

It was necessary to establish a uniform system, founded upon the recent Revenue Laws.

The act for the Collection of the Duties provided that they should be received in gold and silver coin only. Conceiving, that the object of this provision was to exclude payments in the paper emissions of the States, but not to preclude the department from adopting an arrangement, which, while it secured the eventual payment in specie, would promote both the public and private convenience, a few days after his appointment, Hamilton issued a circular to the Collectors on this subject. They were instructed to receive the bank notes of the Banks of North America and New York, in payment of Duties, as equivalent to gold and silver—as a measure which, besides the immediate accommodation to individuals, "would facilitate remittances from the several States, without drawing away their specie, an object in every way important." A weekly account of the receipts and expenditures was directed to be made to the Treasurer, whose drafts were to be received in payment of duties, or in exchange for specie.

These instructions were followed by a Circular, calling on the Collectors and Naval Officers, for a statement of any defects that should be discovered in the existing Revenue Laws, which, it was desired, should "be as diffusive, as the object was extensive." The more important forms were at the same time transmitted.

A regular account of the Exports was required to

* "We shall not adopt the State Laws for the purpose of Collecting the Duties. A bill for that purpose was ordered to lie on the table." Ames to Minot, May 19, 1789.

be returned, a form of which was given; and particular directions were issued as to the weekly transmission of the bank notes received for duties, returns of which were, at the same time, to be made to the Treasurer, and to the Secretary of the Treasury.*

Soon after, the duties collected at the Eastward were directed to be remitted to the bank in Boston—duplicate receipts being taken from the Cashier for each deposit, one of which was to be transmitted to the Treasurer—of which remittances, weekly returns were required. The object of this arrangement was also stated to be, "to facilitate the negotiation of drafts without drawing the specie."

Directions were given as to the Bonds taken for duties,† that if not paid, they should be immediately put in suit; and that, "the most exact punctuality would be considered indispensable," to ensure which, each Bond in suit, with the time of its commencement, was required to be stated in the Monthly return of Bonds. "Relaxations," he observed, "under State laws, may give an air of rigor to this instruction, but he considered its strict observance as essential, not only to the order of the Finances, but even to the propriety of the indulgence which the law allows of procrastinated terms of payment of duties."‡

* Lists of these notes were also to be signed by the Post Master. One copy of which, thus signed, was to be retained by the Collector, as a voucher. The other to be sent to the Treasurer.

† By the Impost Act, a credit of various periods was given for the Duties —a necessary and an important facility to an impoverished people—for which endorsed Bonds were taken. For Imports for exportation, the Drawback of Duties assumed the form of a Debenture for the amount, from the Government, conditioned on the payment of the Duty Bond.

‡ As a matter of high importance, and as was expressly stated, to enable them to examine and check the Collectors' Quarterly Accounts of Impost and Tonnage Duties collected by them, a Circular was issued to the Naval Officers,

Some time after, duplicates of the receipts for the deposits in Bank were ordered to be furnished immediately upon each payment being made, into a Bank; in order, that it might be covered by a regular warrant, and the Collector's account credited at the Treasury.

By this system of returns, the Department was constantly informed of the duties received, and of the Bonds taken. These Returns exhibiting, "not only the actual balance in any one day, but each individual payment," were regularly entered in a journal, which being under his eye, enabled the Head of the Department to maintain, even at the moment of his most arduous engagements, a constant supervision of the receipts for Customs.

Stating it to be "an important principle of public policy, that allowances to officers should not be extended by implication or inference, as discretion on that head must, from the nature of things, be liable to great abuses, he also gave instructions as to the mode of calculating their allowances. This was followed by a circular, in which it was observed, that "motives friendly to the interests of the Officers of the Customs, as well as the advancement of the public service, induced him to desire a statement of the amounts of their emoluments."

In order to a judicious policy in the laws regulating Navigation, he also, immediately after entering upon his office, propounded questions to the Collectors, as to the Navigation of the several States and of Foreign Nations—the construction of vessels, their original cost, the quality of their materials, their duration, the number of voyages

directing them to keep "Impost Books" and "Tonnage Books." Upon an investigation, at a late period, it is stated, as the result, that "had the books designated been kept, and the quarterly examinations and comparisons been duly made by these officers, it is scarcely possible, the immense defalcations could have taken place, or so long escaped detection."

performed in a year, and their nature, the number of seamen in proportion to their burthen, their customary pay and subsistence, and the privileges and emoluments enjoyed by them.

While thus forming a system for the COLLECTION OF THE REVENUE, he was also occupied in the organization of the TREASURY DEPARTMENT.*

Under the provisions of the Act, which constitute the Treasurer the Receiver of all the public monies, the general rule was established, that all receipts and disbursements must be sanctioned by warrants in favor of, or upon him, signed by the Secretary, countersigned by the Comptroller, and registered by the Register—Those of receipts must, in order to discharge the payer, be acknowledged by the Treasurer—Those of disbursement by the party receiving them, for the discharge of the Treasurer.

The other regulations would naturally be subdivided into those relating to the SAFE-KEEPING, and the DISBURSEMENTS of the public money—as to each of which, similar appropriate guards were established.

The ACCOUNTS of the United States were, by a general rule, directed to be made quarter yearly—as well, by all inferior officers, as by the several members of the Department, and all passed separately, under the supervision of the Secretary, Comptroller and Auditor; and were kept in their distinct offices—formally at the Register's office—more succinctly at the offices of the Secretary and Comp-

* In a Report to Congress of 28th March, 1792, from which much of this statement is derived, it is stated; "The Treasurer keeps no money himself. Weekly accounts are received from each Bank. A copy of each account is, at the same time, sent to the Secretary of the Treasury, who can refer daily to the state of the Accounts with the Banks, or to the Books kept by them with the Treasurer, which not only show the actual balance in any one day, but each individual payment. Thus the Legislature may ascertain with certainty, that the public monies have not been misapplied."

troller; at each of which a regular record was kept of all warrants for receipts and expenditures—of which an account was also kept by the Treasurer.

A regular gradation of this admirable system of checks, was maintained by a practice, that all expenditures were to be made in pursuance of legal appropriations, and the Secretary and Comptroller being both responsible for this, accounts of the sums appropriated to each object were opened in each of their offices. On these the warrants were drawn, and being carried to their respective accounts, the balances exhibited the amounts unexpended.

The same principles were applied to the office of the Register, in which, the general and particular results of receipts, expenditures, and allowances of every kind, were shown for each branch of the revenue system. While, to secure the due accounting for the monies received by the collectors and other officers of the revenue, a system of intermediate checks was established, by which the accounts of each officer served as a corrective of the others.

These details are necessary to show the organization of this department, an organization capable of being indefinitely extended to every object the advancing interests of the country might render necessary, and so complete, as to have extorted the admiration of every individual who has presided over that branch of the public service—the excellence of which is also attested by the admission, that each innovation has indicated the superiority of the original system.

The whole system, with all its self-acting checks, its forms, and balances, originated with Hamilton; and it will be remarked, as evidence of its perfection, that while directing the control of millions, not one dollar of the pub-

lic money ever passes through the hands of the Secretary of the Treasury; that he cannot draw his salary, without the written sanction of its four principal officers—the Comptroller, Auditor, Treasurer, and Register.

The Department of Finance having been organized, and measures for the collection of the Revenue, as far as the imperfect legislation of Congress would permit, having been adopted, the Secretary of the Treasury now directed his attention to the great duty of his office—the digesting and preparation of a plan for the support of "PUBLIC CREDIT"—a duty, on the successful performance of which, depended the success or failure of the Federal Constitution. This subject had been presented directly to the consideration of Congress, in a petition from a small number of public creditors in Pennsylvania.

In this memorial, having stated, that "immediately to pay off the public debt, principal and interest, if not impracticable, would be greatly inconvenient, and is certainly unnecessary;" and having adduced the example of other nations, in favor of permanent appropriations for the payment of interest, it was urged "that a certain amount of Funded Debt (and surely the debt by the United States would not be deemed too great), is a National benefit." "Each State will find an interest in the welfare and punctuality of the rest—the Federal Government will be zealously supported as a general guarantee; and, in short, a debt originating in the patriotism which achieved the Independence, may thus be converted into a cement, that shall strengthen and perpetuate the Union of America." *

This paper was referred to a select committee, of which Madison was chairman. They reported resolutions, which were passed the day previous to that on

* This memorial was signed by men of both parties, and was understood to have been from the pen of A. J. Dallas.

which Hamilton was commissioned as Head of the Department of Finance, declaring that: "an adequate provision for the support of the public credit, is a matter of high importance to the honor, and prosperity of the United States."

The Secretary of the Treasury was directed to prepare a plan for that purpose and an order was passed; directing him to obtain statements of the public debts and funds of the States; and of the amount of the Loan Office certificates, and other public securities of the United States, in the State Treasuries.

The Debt of the United States was composed of two parts—the Foreign and Domestic.

The Foreign Debt, consisting of Loans from the Governments of France, Holland, and Spain, and from individual lenders in Holland, at specified rates of interest, upon which large arrearages had accrued, amounted nearly to twelve millions of dollars.

The Domestic Debt proper, of which the evidences in circulation, were principally Final Settlements, being evidences of the army debt, in the settlement of the army accounts—Loan Office certificates, issued from the Loan Offices, established in each State—and Continental emissions: was reducible, in its primary form, to four general heads.*

* 1st. The old emissions of Continental money.

2d. The Loan Office Debt, contracted for moneys lent to the Government.

3d. The army debt, contracted for the pay and commutation of the army.

4th. The debt of the Five Great Departments, as they were called in the resolutions of Congress, being for services and supplies in the Marine Departments, the Quartermasters, Commissaries, Clothing and Hospital Departments—from which, were emanations.

The Registered Debt, so denominated, from new kinds of certificates issued by the Register of the Treasury, in lieu of the former evidences.

Indents of Interest, being a species of paper payable to bearer, which,

The new emissions, though guaranteed by Congress, fell within the class of State Debts, having been issued upon the funds of the States.

These State Debts had assumed all the forms ingenuity could devise, to meet urgent exigencies, and were involved in all the intricacy of accounts which the changing policy of the States had produced; these accounts being dispersed in the hands of multitudes of officers, upon whom it had been in vain attempted to inculcate a sense of responsibility.

In Massachusetts, whose exertions to meet her engagements had involved her in a civil war, were floating: Half-pay notes—notes issued to the widows and orphans of deceased officers—certificates of interest for these notes, and balances stated from the books of the Commissioners for settling with the Continental army.

The Connecticut Debt consisted of notes payable at various periods, to the line of the army; notes issued by particular acts of Assembly, of different dates; notes for re-mounting dragoons; those issued in lieu of old notes re-loaned; certificates for interest on the State Debt; unpaid balances of orders payable out of a specific tax; State bills, emitted in the year seventeen hundred and eighty; Pay table orders, and old emissions issued before the war.

In New York, certificates for money loaned by individuals; horse notes; depreciation pay notes; pay notes; pension notes; certificates for the payment of levies and militia; certificates for claims on forfeited estates, and bills of credit, composed the debt.

In New Jersey, were to be seen like certificates for depreciation of pay; certificates of county commission-

by different resolutions of Congress, were issued on account of arrears of interest on the old debt.

ers for military services, and others for demands against forfeited estates.

In Virginia, were the army debt; the Loan office debt; certificates for paper money funded, and balances to foreign creditors, and innumerable land warrants, (often for the same tract of land,) which had, at last, become of so little value as not to be worth the fees of obtaining them.

The debt of South Carolina was reduced to more system, consisting of principal and special Indents, and a foreign debt.

The securities of the other States had branched out into numerous forms, and were so complicated, in many of them, that the financial arrangements were unavoidably made on supposititious amounts.

It was in allusion to this state of the finances, that Ames remarked: "We perceive a great, unavoidable confusion throughout the whole scene, presenting to the imagination a deep, dark, and dreary chaos, impossible to be reduced to order without the mind of the ARCHITECT is clear and capacious, and his power commensurate with the occasion." *

This debt, of a population of three millions of whites, scattered over a wide extent of country, having little intercourse with each other—chiefly engaged in agricultural pursuits—impoverished by a long, devastating war, and suffering all the evils, which flow from separate, conflicting, and unbalanced governments, was computed, in the aggregate, at seventy-five and a half millions of dollars.

* Madison to Jefferson, June 30, 1789: "The Federal business had proceeded with a mortifying tardiness, chargeable, in part, on the incorrect draughts of committees, and a prolixity of discussion, incident to a public body; every member of which almost takes a positive agency, but, principally resulting from the novelty and complexity of the subjects of legislation. We are in a wilderness, without a single footstep to guide us."

The circulation, which, at the close of the War, was comparatively full, had been reduced to the lowest point. It consisted of bank notes in three of the seaport towns, eked out by small amounts of specie, and by such of the public securities as were payable to bearer—the highest of which were sold in the market at from a tenth to a twelfth part of their nominal value.

Such, indeed, was the impoverished condition of the country, that the second Officer of the Government—the Attorney General—and several of the members of Congress, were indebted to the private credit of the Secretary of the Treasury, to discharge their personal expenses. The President of the United States was obliged to pass his note to his private secretary, to meet his household expenses, which was discounted at two per cent. a month; and the members of Congress were paid, by due bills, which the Collectors were ordered to receive in payment of duties.

To pay this debt was obviously impracticable; the only alternative was to adopt the system which Hamilton had proposed in seventeen hundred and eighty-two—that of FUNDING it.

Of the total mass of indebtedness, the proper debt of the Union a little exceeded fifty-four millions. The residue was composed of those of the Individual States. For this sum of nearly twenty-two millions, which, if assumed, would so largely augment the National charge, Hamilton was not called upon to provide by the strict terms of the resolution, under which he acted. But, he resolved, that the relief of the public should be complete; he saw the impracticability of restoring the Public Credit by a partial arrangement, and he determined, with a prudent boldness, to ASSUME the State Debts, and to embrace them in ONE entire comprehensive system.

The result of his reflections on a provision for the Debt, is contained in a REPORT "for the support of the PUBLIC CREDIT," which is the basis of the Financial system of this country.

From the course of events, the nature and value of public credit had been imperfectly understood in the United States. He felt it was important to the success of his proposed measures, to inculcate just sentiments on this subject.

He, therefore, in the beginning of this celebrated Report, took a concise view of the inducements to a proper provision for the Debt. "Such was the importance of Credit," he said, "that, upon a due observance of the maxims that uphold it, materially depended the individual and aggregate prosperity of the citizens of the United States—their relief from the embarrassments they now experience—their character as a people—the cause of good Government."

Beside motives of political expediency, "there were arguments for it," he remarked, "which rest on the immutable principles of moral obligation; and, in proportion as the mind is disposed to contemplate, in the order of Providence, an ultimate connection between public virtue and public happiness, will be its repugnance to a violation of those principles. This reflection," he added, "derives additional strength from the nature of the debt of the United States. IT WAS THE PRICE OF LIBERTY. The faith of America has been repeatedly pledged for it, and with solemnities that give peculiar force to the obligation."

Having adverted to the great and invaluable ends to be secured by an adequate provision for its support, he indicated its importance to the public creditors, and the benefits to result from funding the Debt, and thereby making it answer most of the purposes of money.

The Debt had been odious to the nation; it was, therefore, of moment, in order to a due provision for it, that the mode, in which it could be made to advance all the great interests of Industry, should be manifested. This was briefly done, and the evils of an unfunded Debt, as an object of speculation, were exhibited, diverting capital from the more useful channels of circulation, for which it afforded no substitute; and rendering it, from its fluctuation and insecurity, a mere and a precarious commodity, instead of a substitute for money. From these general views, he proceeded to some preliminary discussions, which the nature and situation of the debt suggested.

It was universally agreed, that the foreign debt ought to be provided for, according to the precise terms of the contract relating to it. But, as to the domestic debt, there was a difference of opinion. It had been urged, that there ought to be a discrimination between the original holders of the public securities, and present possessors by purchase. This doctrine Hamilton rejected, "as equally unjust and impolitic, as highly injurious even to the original holders, depreciating their property, and as ruinous to public credit." He also insisted, that such discrimination would be repugnant to the Constitution; and, having thus exploded the principle of it, he referred to the explicit sanction given to the rights of the purchasers by the Congress of seventeen hundred and eighty-three.

He then proceeded to an examination of the question, whether a difference ought to be permitted to remain between the creditors of the United States, and those of the States, individually. He declared, that an ASSUMPTION of the Debts of the particular States by the Union, and a like provision for them, as for those of the Union,

would be "a measure of sound policy and substantial justice."

In favor of it, he urged, that a provision by One authority, would be more effectual, than by several; that collision and confusion would be prevented; that conflicting systems would diminish the aggregate revenue; and, that the public creditors receiving their dues from one source, distributed with an equal hand, and having the same interest, would unite in supporting the fiscal arrangements of the Government.

Distinct provisions would produce distinct interests, mutual jealousy, and opposition, and counteracting systems. The State creditors being less eligibly provided for, would influence injuriously the creditors and credit of the United States. "Hence it was the interest of the Creditors of the Union, that those of the States should be comprehended in a general provision. Neither would it be just, that one class of public creditors, should be more favored than the other. The objects for which both debts were contracted, were the same; indeed, a great part of the State debts had arisen from assumptions by them, on account of the Union; and the same measure of retribution for all would be most equitable."

It had been objected, that the assumption of the State Debts, would increase the difficulty of an equitable adjustment between them and the United States. Such a settlement would require all the moderation and wisdom of the Government. The discussion of its principles, till further lights were obtained, he thought premature—all that he then advised, was, that the amount assumed and provided for, should be charged to the respective States, to abide an eventual arrangement. He then suggested a plan for the liquidation of accounts between the United States and its Members, which includ-

ing the assumption of the State Debts, would consist with equity. This plan, of which the outline is given, was to be executed, under the superintendence of Commissioners, vested with equitable discretion, and final authority.

Of the debt of the United States, a large proportion consisted of arrears of interest. It was supposed, that the claim of the principal should be preferred, and that an inferior provision might suffice for the interest. Hamilton viewed the claims for interest, as having equal pretensions. The liquidated debt had acquired the character of a capital bearing an interest of six per cent., but without any definite period of redemption, and, therefore, might be regarded as an annuity redeemable at the pleasure of the Government. But the arrears of interest were due, and those to whom they were due, had a right to immediate payment. All that could be proposed, was a new contract upon the basis of a commutation of that right for a real and fair equivalent. Thus, these arrears were entitled to an equal provision with the principal.

To provide for the interest of the total debt, would require a little more than four and a half millions of revenue. To fund this debt, at the existing rate of interest, in addition to the sum necessary for the current service, it was thought, would require the extension of taxation to a degree, and to objects, which the true interests of the public creditors forbade. It was therefore expected, they would concur in modifications of their claims "on fair and equitable principles, so as to facilitate an arrangement substantial, desirable, and satisfactory to the community." It should not be forgotten, he observed, "that exigencies might arise, which would call for extraordinary resources, and, if the faculties of the country were exhausted or strained to provide for the public debt, there could be less reliance

on the sacredness of the provision." But, while he yielded to the force of these considerations, he did "not lose sight of those fundamental principles of good faith, which dictate, that every practicable exertion ought to be made scrupulously to fulfil the engagements of Government; that no change in the rights of its creditors ought to be attempted, without their voluntary consent; and that this consent ought to be voluntary in fact, as well as in name,—consequently, that every proposal of a change should be in the shape of an appeal to their reason and to their interests, not to their necessities. To this end, a fair equivalent should be offered for what may be asked to be given up, and unquestionable security for the remainder. Without this, an alteration consistently with the credit and honor of the nation would be impracticable."

Viewing the debt as an annuity at the rate of six per cent., redeemable at the pleasure of the Government, it would be in its power to avail itself of any fall in the market rate of interest for reducing that of the debt. "This property of it is favorable to the Government, unfavorable to the creditor, and might facilitate an arrangement for the reduction of the interest upon the basis of a fair equivalent. Probabilities are a rational ground of contract, and effectual measures being taken to establish public credit, the Government rate of interest, he supposed, would soon fall to five per cent., and, after twenty years, probably to four." The reasons of this presumption are given.*

* In 1546, Henry VIII. The earliest Statute authorizing interest, fixed it at ten per cent. His successor prohibited all interest. Under Elizabeth, the rate fixed was the same as under her father. Under James I. in 1624, it was reduced to eight per cent.; and a few years after, under Cromwell, it was further reduced to six per cent.—which rate was confirmed at the restoration. In 1714, it was fixed at five per cent., at which it still continues as the statutory rate.

Proceeding on it, Hamilton proposed a Loan to the amount of the whole debt, on five different plans.

The first—To pay one-third of the debt in Lands, in the Western Territory, at the rate of twenty cents per acre; and to fund the other two-thirds at six per cent., redeemable at the pleasure of the debtor.

The second—To fund the whole sum at four per cent., irredeemable by any payment, exceeding five dollars on the hundred per annum, on account both of principal and interest, paying as a compensation for the reduction of interest, fifteen dollars and eighty cents, payable in lands.

The third—To have sixty-six and two-thirds of a dollar funded immediately at six per cent., irredeemable by any payment exceeding four and two-thirds of a dollar per annum; and to have, at the end of ten years, twenty-six dollars and eighty-eight hundredths funded at the like interest, and rate of redemption.

The two remaining propositions offered an annuity for life, of four per cent., upon two different contingencies.

In addition to this loan, another, of ten millions, was proposed; giving for every hundred dollars subscribed, payable one half in specie, the other half in debt, an annuity of five per cent., irredeemable by any payment exceeding six dollars per annum, on account both of principal and interest. As an auxiliary expedient, a loan was also proposed, on the principle of a Tontine, to consist of six specified classes. In order to keep up a due circulation of money, the interest on the debt was to be paid quarter yearly.

The motive for the several propositions was to offer to the creditors an option, by which they would be the more apt to be induced to concur in the effort, so to remould the debt, as would bring the expenditure of the

nation to a level with its income. But, he observed, "While the Secretary would endeavor to effect a change in the form of the debt, by new loans, in order to render it more susceptible of an adequate provision, he would not think it proper to aim at procuring the concurrence of the creditors, by operating on their necessities." Hence, he declared, "that whatever surplus of revenue might remain, after satisfying the interest of the new loans, and the demand for the current service, ought to be divided among the non-subscribing creditors, making a temporary appropriation, limited to four per cent., being as much as the revenues would warrant."

He stated, that, "he confided for the success of the propositions to be made, on the goodness of the reasons upon which they rest; on the fairness of the equivalent to be offered in each case; on the discernment of the creditors of their true interest, and on their disposition to facilitate the arrangements of the Government, and to render them satisfactory to the community."

The next consideration was, as to the provision for the Debt, according to the proposed modifications of it.

As the consent of the State creditors was necessary to the contemplated assumption, the funds were confined, for the present, to the existing debt. The instalments of the Foreign debt, he advised, should be paid by new loans abroad. The sum therefore to be provided was,—enough to pay the interest on that debt; four per cent. on the Domestic debt; and six hundred thousand dollars, computed to be sufficient for the current service.

To meet this aggregate sum, he proposed to retain the present duties on imports and tonnage, and to impose such additional duties on wines, spirits, including those distilled within the United States, teas and coffees, as would not be detrimental to trade or agriculture—they

all being luxuries; the greater part of them, foreign luxuries—some of them, in the excess to which they were used, pernicious luxuries.

Should the increase of duties on them, he remarked, tend to decrease their consumption, it would be a useful economy; and promote a favorable balance of trade; and, as to distilled spirits, would promote health and morals, benefit agriculture, and open a new and productive source of revenue.

To secure the collection of the duties on such of these luxuries as were imported, a duty on importation would be simple and easy, and avoid the possibility of interference with State regulations; but it was thought necessary also to follow them into the hands of dealers, and thus, by this interior scrutiny, to increase the risk of detection. By this, the dealer would become a sentinel on the importer. After classing the spirits, and suggesting a rate of duty on each, and also proposing a duty on the stills, an act was framed, which he submitted, for the collection of the excise, in which the strongest guards are seen to prevent abuses of authority, and indemnity is secured to proprietors for any injury or detention of their property, out of the public Treasury. "The chief outlines of the plan are not original; but it is no ill recommendation of it, that it has been tried with success." *

As to the funds provided, and to be provided, he recommended, that the duties on distilled spirits should be applied, in the first instance, to the payment of the interest on the Foreign debt—reserving out of the residue, an

* In the Life of John Randolph, by Garland, i. 49, this passage is misquoted, so as to make it apply to the whole funding plan, when it merely refers to the mode adopted for the collection of these duties. The misquotation is thus—for "*the plan*," are substituted "*these plans*"—for "*it* has been tried" "*they have.*"

annual sum for the current service—that the surplus, together with the product of the other duties, should be applied to the payment of the interest on a new loan, by an appropriation coextensive with the duration of the debt; and if any part remained unsubscribed, the excess should be divided among the creditors, by a temporary disposition, with a limitation to four per cent.

Having completed his view of the Funding System, Hamilton observed: "Persuaded as the Secretary is, that the proper funding of the present debt, will render it a material blessing, yet, he is so far from acceding to the position, in the latitude in which it is sometimes laid down, 'that public debts are public benefits'—a position inviting to prodigality, and liable to dangerous abuse—that he ardently wishes to see it incorporated as a fundamental maxim, in the system of public credit of the United States—that the creation of debt should always be accompanied with the means of extinguishment. This, he regards, as the true secret for rendering public credit immortal; and he presumes it is difficult, to conceive a situation in which there may not be an adherence to the maxim. At least, he feels unfeigned solicitude that this may be attempted by the United States, and, that they may commence their measures for the establishment of credit, with the observance of it."

Under this impression, he proposed, that the nett product of the Post Office, not exceeding a million of dollars, should be vested in Commissioners: consisting of the Vice President, Speaker of the House of Representatives, the Chief Justice, Secretary of the Treasury, and Attorney-General of the United States, in trust, to be applied by them to the discharge of the debt, either by purchases of stock in the market, or by payments on account of the principal, in conformity to public engagements, to con-

tinue so vested, until the whole of the debt shall be discharged.

He also proposed, that these commissioners should be authorized to borrow, with the approbation of the President, twelve millions of dollars, to be applied to the payment of the interest and instalments of the Foreign debt, to the end of the present year—to the payment of any deficiency in the product of the funds provided for paying interest on the Domestic debt—to effect a change in the form of such part of the Foreign debt, as bears an interest of five per cent.; and to the purchase of the debt, while below its true value, at the market price. This would be a measure, he remarked, highly dishonorable, if it were to precede the funding of the debt, but wholly unexceptionable after that event. It would raise the value of stock to the creditors, and the difference between its price and the true value, would be a clear gain to the public. If not done, the debt would be an object of foreign speculation, which would remit the interest abroad, and gain the difference. The competition of the Government would enable it to reap a part of the profit, and would contract the extent and lessen the extra profit of foreign purchasers. It would accelerate the rise of stock; and, he was of opinion, that it ought to be the policy of the Government to raise the value of stock to its true standard, as fast as possible. When it arrives at that point, foreign speculations (till then pernicious, further than as they serve to bring it to that point) will become beneficial. He then stated, that he contemplated the application of this money through the medium of a National Bank, for which, with the permission of the House, he would submit a plan in the course of the Session.

He, finally, proposed a series of concurrent resolutions to be entered into, declaring that the United States will

assume, at the first Session of the year seventeen hundred and ninety-one, such part of the State debts as shall, prior to the first of January, seventeen hundred and ninety-one, be subscribed towards a loan, upon the principles of either of the previous plans, suspending this assumption with respect to the debt of any State, which may have exchanged the securities of the United States for others issued by itself, until the whole of those securities shall have been re-exchanged or surrendered to the United States; and, providing that the interest of the debt assumed, be computed to the end of the year seventeen hundred and ninety-one, and be paid by the United States from the first of January, seventeen hundred and ninety-two—that the amount of such assumed debt, be charged to each State in account, upon the principles upon which it shall be lent; and that subscriptions similar to those prescribed as to the debt of the United States should be opened.

The Report concluded with a declaration, that, "it is of the greatest importance, that no further delay should attend the making of the requisite provision, not only because it will give a better impression of the good faith of the country, and will bring earlier relief to the creditors—both which circumstances are of great moment to public credit—but because the advantages to the community, from raising the stock as speedily as possible, to its natural value, will be incomparably greater, than any that can result from its continuance below the standard." *

It must be recollected, as having an important bearing

* Schedules are annexed to this Report, showing his plan of adjusting the State Debts; a statement of the Foreign Loans—of the Debt Proper—of the Arrears of Interest—of the State Debts, in part—plans of the proposed Annuities, and of a Tontine—an estimate of the Civil List—and of the probable Revenues.

on various considerations which will arise in the progress of this narrative, that, Hamilton had, previous to the termination of the War, promulgated the opinions which governed him in this plan for the support of the Public Credit; and, as to that policy which gave rise to most discussion, the assumption of the State Debts, he had pronounced it, as early as the year seventeen hundred and eighty-one, essential to an efficient fiscal system.*

His efforts to carry his principles into effect, in the Congress of seventeen hundred and eighty-two, have been also seen. In this Report, which gave him an extended celebrity in Europe and America, he proposed, essentially, the system which had given stability and efficacy to the credit of England, but he departed from it in some particulars, and improved on it in others.

As Madison had reported the resolution, recommending an effective provision for the Public Creditors; and had also brought forward the propositions for a revenue from imports and tonnage, Hamilton felt it desirable to ascertain his views as to the supplementary resources which would be required.

With this intent, he wrote him on the twelfth of October. "I thank you, my Dear Sir, for the line you were so obliging as to leave for me, and the loan of the book accompanying it, in which I have not yet made sufficient progress to judge of its merit. I don't know how it was, but I took it for granted, that you had left town much

* In his letter to Robert Morris, commenting on his proposition, that the United States should, in compensation for the responsibility of the proposed Bank to redeem the debt, "establish certain funds for an annuity payable to the Bank, equal to the discharge of the whole amount of the paper currency in thirty years, with an interest of two per cent. per annum," he observes, "I have not mentioned the amount of the annuity, because I have not the means to judge what quantity of paper money now exists, *since it will be necessary to take all the State emissions into the calculation.*"

earlier than you did; else I should have found an opportunity, after your adjournment, to converse with you on the subjects committed to me by the House of Representatives. It is certainly important, that a plan as complete, and as unexceptionable as possible, should be matured by the next meeting of Congress; and, for this purpose, it could not but be useful, that there should be a comparison and concentration of ideas, of those whose duty leads them to a contemplation of the subject.

"As I lost the opportunity of a personal communication, may I ask of your friendship, to put to paper, and send me, your thoughts on such objects as may have occurred to you, for an addition to our revenue, and also as to any modifications of the public debt, which could be made consistent with good faith—the interest of the Public and of the Creditors.

"In my opinion, in considering plans for the increase of our revenue, the difficulty lies, not so much in the want of objects, as in the prejudice which may be feared with regard to almost every object. The question is very much, what further taxes will be *least* unpopular? Adieu, my Dear Sir, your affectionate and obedient—"

Madison replied,* "Dear Sir, I was too much indisposed, for some time after the receipt of your favor, of the twelfth of October, to comply with the request in it; and since my arrival here and recovery, I have till now been without a conveyance to the Post Office.

"The supplemental funds which at present occur to me as on the whole most eligible are: First, An Excise on home Distilleries. If the tax can be regulated by the size of the Still, it will shun every objection that renders excises *unpopular or vexatious.* Such an experiment was

* Orange, Virginia, Nov. 19, 1783.

made in Scotland; and as a *Scotch* tax, I have not understood that the mode was disapproved. The complaint against it was founded on a comparison with the different mode established in the other part of the kingdom, by which the burden was rendered disproportionate. Second, An augmentation of the duties on spirituous liquors imported. This will not only be compatible with the former, but in a manner required by it. Third, A LAND TAX. This seems to be recommended by its simplicity, its certainty, its equity, and the cheapness of collecting it. It may be well also for the General Government to espouse this object before a preoccupancy by the States becomes an impediment. It is an essential branch of National Revenue, and when once in the hands of the National Government, the States will, of course, turn their attention to those miscellaneous objects, which can be more easily managed by them, than by Congress, and by which they can, as they like, equalize the burden on their respective citizens.

"Some difficulty, may, perhaps, arise from the different rules of assessment in the different States, but it will only require an adoption of their diversities, until the way shall be prepared for uniformity. Fourth, A STAMP TAX on proceedings in the Federal Courts, as soon as experience shall have supplied the prerequisite information, and as far as will make the Establishment support itself.

"I do not add, a General Stamp Tax, because, with some, it would be obnoxious to prejudices not yet worn out, because it could not be so formed as to fall in due proportion on the States, without more information than can be speedily obtained, and because it would not for some time be productive in the State Courts, unless extended to suits for antecedent debts, etc., in which case

the debtors on whom the tax would fall, would make it a fresh topic of clamor.

"The modification of the public debt, is a subject on which I ought perhaps to be silent, having not enough revolved it to form any precise ideas. I take it to be the general expectation, that the foreign part of the debt is to be put on the most satisfactory footing, and it will, no doubt, equally gratify the public wish, if it can by that means be turned into a debt, bearing a reduced interest. The domestic part, is well known to be viewed in different lights by different classes of people. It might be a soothing circumstance to those least favorably disposed, if by some operation, the debt could be lessened by *purchases made on public account;* and particularly, if any impression could be made on it, by means of the Western Lands. This last, is a fund, which, though overrated by many, is, I think, capable of aiding the redemption of the capital of the debt.

"A further reason for keeping the lands at market, is that, if the appetite for them be not regularly fed, it may produce licentious settlements, by which the value of the property will not only be lost, but the authority of the laws impaired.

"I consider it as very desirable, that the provision to be made, should be such as will put the debt in a manifest course of extinguishment. There are respectable opinions, I know, in favor of prolonging, if not perpetuating it. But without entering into the general reasonings on that subject, there are two considerations which give a peculiarity to the case of the United States—one, that such a policy is disrelished to a degree, that will render *heavier burdens* for discharging the debt more acceptable than lighter ones, not having that for their object. The other, that the debt, however modified, must, as soon as the interest is

provided for, or the permanent views of the Government ascertained, slide into the hands of foreigners; as they have more money than the Americans, and less productive ways of laying it out, they can and will pretty generally buy out the American.

"I need not apprise you that some of the ideas I have hazarded may proceed not only from an inaccurate view of the subject, but from a mistake of local for general sentiments with regard to it.

"The less deserving, however, I may think them of being communicated to you, the more they will prove by their being so, my unwillingness to disobey your commands. With affectionate regards, I am, my dear sir, your friend and servant."

A few days after, Hamilton addressed inquiries to Fitzsimmons,* a leading merchant, as to the modes of drawing the public revenue from the different ports of the United States. He intimated his desire to embrace the pilots in a national system—requested his "ideas also" respecting new objects of revenue. "With regard to feeling the public pulse about the debt," he observes, "I have several times had an inclination to the measure; but this inclination has given place to the reflection, that bringing on a discussion might be as likely to fix prejudices as to produce good, and that it may be safest to trust to the effect of the Legislative sanction to good measures, and to the reasons that will accompany them at the time."

* November 27, 1.

CHAPTER LVIII.

THE ferments produced by the discussion of the Constitution, were subsiding. The Presidency of Washington was a confidence, and a consolation—still it was the quiet of expectation and of hope. As, mingling with all the great necessities, public and private, the restoration of the National credit was the great, the almost absorbing thought; and hence all eyes were directed to the financial policy which should govern. The great administrative crisis, which was to determine the fate and character of the new Government, had been reached.

On the seventh of January, Congress were again assembled at the city of New York. The following day, the Speaker and Members of the House of Representatives attended in the Senate Chamber, to receive the President, accompanied by the Heads of Departments.

In a short speech, after congratulating them on the recent accession of North Carolina to the Union; on the rising credit, and respectability of the country; the general and increasing good will towards the Government of the Union; the concord, peace, and plenty, so eminently auspicious to the national prosperity, their attention was directed to several leading subjects of Legislation.

Among these, were provisions for the common defence, by the proper establishment of a regular force—by the

adoption of an uniform plan for arming and disciplining the militia; and by the promotion of such manufactures as would "tend to render the people independent of other countries, for essential, particularly military supplies." The necessity of being prepared for Indian hostilities, indicated by the recent conduct of certain tribes; the importance of making a provision for the intercourse with foreign nations; the expediency of the early establishment of a uniform rule of naturalization, and of "Uniformity in the currency, weights, and measures," were also stated; and the introduction and protection of useful inventions, the facilitating of the intercourse by Post Roads, the promotion of Science and Literature, either by affording aid to existing seminaries, or by the establishment of a National University, were strongly recommended.

A valuable and earnest admonition on the importance of diffusing knowledge among the people, was followed by observations addressed to the House of Representatives. "I saw with peculiar pleasure, at the close of the last session, the resolution entered into by you, expressive of your opinion, that an adequate provision for the support of the public credit, is a matter of high importance to the national honor and prosperity. In this sentiment, I entirely concur. And, to a perfect confidence in your best endeavors to devise such a provision as will be truly consistent with the end, I add an equal reliance on the cheerful co-operation of the other branch of the Legislature.

"It would be superfluous to specify inducements to a measure, in which the character and permanent interests of the United States are so obviously and so deeply concerned, and which has received so explicit a sanction from your declaration."

These observations were well adapted to prepare

Congress for the consideration of the important subjects which Hamilton had in contemplation to submit to their deliberations.

The day after this speech was delivered, a communication was received from the Secretary of the Treasury, informing the House, "that, in pursuance of their Resolution of the twenty-first of September, he had prepared a PLAN FOR THE SUPPORT OF THE PUBLIC CREDIT; and, that he was ready to report it to the House, when they should be pleased to receive it."

Hamilton regarded it as a desirable arrangement, that the Heads of the Departments should appear before the House, to give the necessary explanations of the propositions they might lay before it. He was probably influenced by the considerations, that a more direct responsibility would thus be secured; fuller expositions of their views be given; that it might have the effect of excluding from the high offices of the Government, men of inferior capacity; and more, remove the President from party strifes.

Under these considerations, the alternative was inserted in the Bill, constituting the Department of the Treasury, of giving information to the Legislative body, "in person, or in writing, as might be required."

On receiving this communication, his friend Boudinot expressed a hope, that the Secretary might be permitted to make his communication "in person;" but, after a short debate, it was resolved to receive his Report "in writing."

The policy of this decision may well be questioned. Its obvious effect has been to render the members of the Cabinet, and, consequently, the counsels of the nation, more remotely amenable to public opinion, than those of the Government from whose rule it had so recently

broken. The jealousy of the Legislature took a wrong direction.

On the fourteenth of the month, the day designated by the House, for the reception of this Report, the Representative chamber was filled, and every avenue to it occupied by a vast concourse of people.

After reading this document, its consideration was made the order of business on a subsequent day.

In the disposition of the several matters adverted to in the President's speech, the Secretary of the Treasury was directed to report a plan for the encouragement of manufactures. A few days after, he made a Report on the Petition of an individual for relief from a forfeiture, whose particular case he reserved for inquiry, suggesting a temporary arrangement, in order to avoid the inconvenience of a legislative decision upon a particular application, and indicating the necessity, in conformity with the liberal policy of commercial nations, of vesting somewhere, a discretionary power of granting relief for forfeitures incurred under peculiar circumstances. A bill providing "for the remission of Fines, Forfeitures, and Penalties," was consequently passed.

A petition was also referred to him, for an allowance for depreciation in the currency. With respect to the numerous petitions which he was called to consider, it was his habit, to state the general principles which governed his decision, and thus to establish precedents, as rules for the conduct of the Department. In relation to this petition, he saw the necessity of closing the door upon similar applications; and reported, that "it was an important rule, that regular settlements, in the established course, involving general principles, should remain untouched; that it was especially important to avoid precedents for a new species of claim for depreciation, and

which would involve the principle, that for depreciation, which may have accrued between the time an order for payment may have been given, and the time of actual payment, compensation is to be made." He also urged the purchase of West Point,* instead of a temporary compensation for its use, "it being just, that compensation should be made for its entire value, either by purchase with consent of parties, or by some equivalent mode of payment." The purchase was made. He likewise recommended a law containing cautionary regulations for the renewal of Loan Office certificates.

The difficulties which had occurred in the execution of the laws relating to the collection of the revenue, and to the regulation of the coasting trade, rendered the early action of Congress of much importance. He was ordered to report such information as he had obtained on these subjects, with his opinions.

On the following day, the Report of a special Committee, on an application to purchase a tract of the Public Lands was made. The purport of it was, that the Secretary of the Treasury ought to be empowered to make a contract at a specified price. After a discussion, in which the importance of a systematic plan was shown, a statement of facts respecting the Western Territory, which had been submitted to the House, was referred, with an order, that the Secretary of the Treasury should report an "Uniform System for the disposition of the Lands—the property of the United States."

He also made a Report, as to the "Post Office Department." When this Report, with a bill in conformity to it, was brought before the House, as the Clerk proceeded to read it, a member objected to its being read, on the

* On the Hudson—the site of the United States Military Academy.

ground of the impropriety of Executive Officers being permitted to bring bills before them. The objection was sustained.

The necessity of an early law to provide for the official intercourse with foreign nations, had occurred to him in the discussions, as to the agency of Morris; and a bill for that purpose was reported by Sedgwick.

While Hamilton was thus occupied, a violent attack was made upon him by a member of the House. On the previous anniversary of Independence, he had delivered, in the presence of the President and of many members of Congress, at the request of the Society of the Cincinnati, an eulogium commemorative of General Greene. In this, he had spoken of the feeble aids derived from small bodies of volunteer militia. Burke, who had written against the Cincinnati, took occasion to utter a furious philippic against him for this disrespect of the militia. Hamilton demanded an explanation, in mild and courteous terms, which was given.

On the day appointed for the consideration of the Report on public credit, a similar evidence of the deep interest in this subject, was again evinced by a large assemblage of persons around the Hall of the House of Representatives.

The important debate, on the provision for the debt, was opened by Boudinot, with a general and impressive view of the circumstances under which the debts were incurred, and of the obligation to provide for them.

He was followed by Fitzsimmons, who offered substitutes for previous resolutions, which were accepted. The first, that an adequate provision should be made for the Foreign Debt, having been unanimously assented to; the second, that "Permanent Funds" ought to be appro-

priated to the payment of the interest on, and the gradual discharge of, the DOMESTIC Debt, was considered.

A motion was made, which was defeated by a large majority, that the Committee should rise, preceded by an avowed hostility to funding systems; by a declaration, that the amount of the debt should be first ascertained; and, by a denial of their right to assume the State debts, as leading to enormous taxes.

To an inquiry, as to the precise purport of the Resolution before the House, one member, asking whether it contemplated a permanent Funding system, it was replied, that the object of the Resolution was, to bring before the House the plan of the Secretary of the Treasury; that the Foreign creditors were not here to make a contract with the people of the United States; but, that the Domestic Creditors were; and, that a modification of the debt might be held out to them, to *be accepted with their consent.* A discursive debate followed.

Livermore was against paying the amounts on the face of the certificates, they having been given for depreciated paper, for services rendered at exorbitant rates, or for supplies furnished, at more than their real worth—seeming to consider a liquidation, at half their nominal value, a compliance with justice. Scott regarded Congress in the light of arbiters. They were not bound to pay the certificates at the value they expressed. He moved, that provision should be made for the Debt, "as soon as the same is ascertained and duly liquidated." This motion, which would have indefinitely postponed the subject, was regarded as evidence of a design to avoid all provision for the Domestic debt, and was powerfully resisted by several leading members. The House was reminded by Boudinot, that they were not arbiters, but parties to contracts, by which the public faith was

pledged; to the honest performance of which, they were bound, as well by the Articles of the Confederation, as by the Constitution of the United States, which explicitly recognize them. He denied, from his personal knowledge, the allegation, that the certificates were understood to be worth no more at the time they were issued, than the price at which they were sold; and rebutted it, by recurring to the fact, that when they were first issued, Congress guarded them from being transferable; but, as the creditors could get nothing for them in that form, passed Resolutions, making them assignable, expressly to enable the soldiers to dispose of them. If it had been supposed, at the time, that the assignee would not stand in a better situation than the assignor did by the sale, this would have reduced the value still lower, as the only motive for the purchase would be the chance of their enhancement by a future provision for them. The only question which could be open was, that of a modification of the payment, *with the consent* of the creditors, as had been proposed by the Secretary of the Treasury, without which it would be improper and unjust.

Ames showed the immorality and impolicy of any proposition, having in view an arbitrary reduction of the debt. The evidences of it were to be considered as "public bonds," for which the whole people were pledged. "The only just idea is, that, when the public contracts a debt with an individual, it becomes personified; and that, with respect to this contract, the powers of Government shall never legislate." "What mischief will follow this discrimination? The public faith will be destroyed—our future credit will be a mere vapor."

After a wide debate, the proposal to reliquidate the debt was rejected; and a motion was made by Burke, so

to amend the Resolution before the House, "that a discrimination should be made between the original holders and their assignees; and, that a scale of depreciation be prepared accordingly." This was withdrawn the ensuing day; the mover of it, stating, that he had brought it forward in consequence of a hasty promise, which he had given to a member; but, that he did not mean to support it, or vote for it.

The Report on the Public credit was first published in the Gazettes on the second of February. The succeeding day, a series of vehement attacks upon Hamilton was commenced, which were continued during the whole course of the discussion.

By those, whose object was to sponge the debt, the dangers of a Funding system were dilated upon. The holders of the general debt, objected to the proposed assumption of the State debts, because it would increase the sum, among the owners of which the Federal revenues were to be divided. They alleged, that it would necessarily destroy the public credit, asserting, that the amount of the Debt to be provided for, would alarm the foreign market; that loans on the best security which the Government could offer, would not be made at less than ten per cent. interest; that the country would be burthened with taxes oppressive to industry, from which it could never be relieved. Those who were hostile to the Government, renewed their outcry of the danger of consolidation; and found, in the hardship of the poor soldier, compelled, as was alleged, to sacrifice his rights to gratify the cupidity of the avaricious speculator, a fruitful theme of declamation.

These clamors were, in themselves, of little moment. They were the complaints of men, who either sought to speculate upon public sympathy, or of those, whose de-

sire to have the debt funded at the highest rate of interest, overlooked all the motives of public policy, which had suggested the proposed provision for it. As they proceeded from a very small part of the public creditors, they would have soon died away; but, in another point of view, their effect was serious. They contributed, with other circumstances, to encourage a member of the House of Representatives, to take ground which no sophistry could render plausible; under whom a party rallied, which suspended, for a long time, a provision for the Debt, and threatened an entire overthrow of all confidence in the Government, at its outset.

As far as indications had been given of public opinion on the question of Discrimination, with but few exceptions, it was in favor of a strict fulfilment of the national contracts.*

The Legislation of the different States had been against it. Both Maryland and Pennsylvania, when they issued their own, instead of the Continental securities, made no discrimination. New York and New Jersey had funded the Continental debt, but did not discriminate. South Carolina rejected a similar proposition, by an almost unanimous vote; and a motion to that effect, made in the Legislature of Massachusetts, did not find an individual to second it. Numerous, as were the petitions before

* The Cincinnati of New York passed a unanimous resolution, disclaiming the principles of a petition proposed to be signed by the Army, for a discrimination, "conceiving it inconsistent with the character they have uniformly maintained, to seek any advantage to themselves which might be incompatible with the principles of an honorable policy." Witherspoon to Hamilton: "We have still an idea, meeting us in conversation and publication, that a discrimination must be made between original creditors, and speculators, as they call them. Discrimination is totally subversive of public credit. * * * Such a thing registered and believed on the Exchange of London, would bring the whole National debt to the ground, in two hours."

Congress on other subjects, not one, had been received asking a discrimination. Thus the public mind was sound; and there being, in fact, little real discontent, the persons who urged this difficulty, were volunteers.

On the withdrawal of the motion by Burke, it was supposed that the idea was abandoned; but, to the great surprise of the House, Madison,* who had hitherto remained silent, renewed the proposition with some variations, which he prefaced with an elaborate and formal address.

Declaring his dissent from the opinion, that the Debt did not exist to the extent and in the form which was generally supposed; he stated, that the subject divided itself into two branches—by whom, the Debt was contracted? To whom, it was due? The first point could

* This distinguished person is thus delineated by a cotemporary:—"Madison is a man of sense, reading, address, and integrity—as 'tis allowed, very much *Frenchified* in his politics. He speaks low—his person is little and ordinary. He speaks decently as to manner, and no more. His language is pure, perspicuous, and to the point. Pardon me, if I add, I think him a little too much of a book politician; and too timid in his politics. He is not a little of a Virginian, and thinks that State the land of promise; but is afraid of their State politics, and of his popularity there, more than, I think, he should be. He is our first man." "He is cool, and has an air of reflection, which is not very distant from gravity and self-sufficiency. In speaking, he never relaxes into pleasantry; and discovers little of that warmth of heart, which gives efficacy to George Cabot's reasoning, and to Lowell's. His printed speeches are more faithful than any other person's; because he speaks very slow, and his discourse is strongly marked. He states a principle, and deduces consequences, with clearness and simplicity—sometimes, declamation is mingled with argument; and he appears very anxious to carry a point by other means, than addressing their understandings. He appeals to popular topics and to the pride of the House—such as, that they have voted before and will be inconsistent. I think him a good man, and an able man. But he has rather too much theory, and wants that discretion, which men of business commonly have. He is also very timid, and seems evidently to want manly firmness, and energy of character."—Ames' Works, i. 35, 42, 48.

admit of no question. It was the debt of the nation for the value they had received. The only point for deliberation was—to whom it was due? In order, as he stated, to establish principles which might lead to a just and equitable decision, he divided the creditors into four classes: Original creditors who had, and those who had not alienated their securities; intermediate, and present holders.

His reason for not urging the pretensions of the intermediate holders was, the labyrinth into which it would lead; and that the only rival pretensions were between the original holders who had assigned, and the present holders of the assignment.

After applying the principles which, he stated, ought to govern them—Public justice, Public faith, Public credit, and Public opinion; and admitting the validity of the assignments, he observed, that one of three things must be done—either pay both, reject both, or make an equitable composition. The former being deemed by him inadmissible, he proposed to allow the present holders, the highest market price, and to give the residue to the original holders—a plan which, he observed, required nothing more than a knowledge of the present holders, from the certificates in their hands; and of the original holders, from office documents. Ordinary maxims, he said, were not applicable to a case of so extraordinary a character, of which the immense fluctuation in value was a striking feature. England, Holland, or any other country, similarly situated, would exercise an equitable interference —as an evidence of which, he adduced the conduct of Great Britain as to the South Sea scheme. If an analogous case were to happen among individuals, a court of equity would interpose its redress; and were there a tribunal on earth, by which nations could be compelled

to do right, something not dissimilar in its principles to that contended for by him, would be enforced in the United States.

He moved, that adequate funds ought to be provided for paying the principal and interest of the domestic debt, *as the same should be liquidated*, giving to the present holder of alienated securities, the highest market rate, and appropriating the balance to the Original holders.

Sedgwick replied, in substance, that, whenever a voluntary engagement is made for a valuable consideration, and the terms of the contract are understood, if no fraud or imposition is practised, a literal performance is absolutely binding.

To render the contract transferable, is to increase its value. To give it such increased value, it is necessary to consider the alienee possessed of all the property of the original holder; and it is absurd and contradictory to say, that a contract is assignable; and at the same time to allege, that there is a kind of property in it, that the holder could not convey by bona fide contract. In the transfers, the contracts were fairly made—the whole rights had been transferred; fraud or imposition were not pretended—the risk was calculated by the parties—the risk contemplated a Revolution in the Government. Admit that the original holder has a first or an equitable demand—can the Government strip one class of citizens, who had acquired property by the known, and established rules of law, of that property, under the specious pretence of doing justice to another class? If the original holder is equitably entitled to a part of the sum paid to the assignee—no Legislative interposition is necessary. He has a perfect remedy in the tribunals of justice.

The immense fluctuation is said to create an extraor-

dinary case. It is admitted, that a depreciation of eighty per cent., would not authorize the proposed interference —will some point of depreciation be indicated, which would authorize it? Will not such interference lay the foundation for infinite frauds and perjuries, and, beyond all powers of calculation, multiply the evils of speculation?

The whole course of the old Congress, Lawrence remarked, was unequivocal as to the nature of these engagements, and made no discrimination between the original holder and the possessor. They annually called on the States to provide for the interest, without discriminating between them. They paid interest on the securities without any discrimination. In the cancelling, substitution, and registry of new certificates, no distinction had been made. Congress, since the war, had been uniform in the support of this contract. They had done nothing to impair its obligation according to its terms; and to remove all doubt, a clause had been inserted in the Constitution, that made all debts and engagements valid against the United States under the late General government, valid against the present. The States are restrained from passing laws impairing the obligations of contracts. This interference would be a violation of the contract. Will it be pretended that the States are prohibited, and that the General government has the power to do it?

The principles upon which the claims of the original holder are interposed, are in favor of the present possessor. "Public justice" requires a performance of contracts, when there is no fraud on the part of the holder. If there was an imposition, the public occasioned it; and between the original holder and the public, there might be a claim for retribution. "Public faith" is as sacredly pledged to the bearer as to the original creditor. "Public credit" results from fair and upright conduct; and the Govern-

ment, to support it, must perform its contracts. "Public opinion" is difficult to be ascertained—but is better learned from the acts of public bodies, than from the assertions of individuals. The uniform conduct of the old Congress was a standard; and that, since seventeen hundred and eighty-three, was in favor of the present possessor. The conduct of the States, gives the same result—Was Congress that high, equitable tribunal, which had been referred to? Were the original holder and the assignee before them? If they were, and no fraud was alleged on the part of the assignee, the original creditor could have no claim. No Court of Equity, it was observed, ever assumed such power. In cases of bankruptcy, the debts are paid to all the creditors, original holders, or alienees, without inquiring into the terms of alienation.

The original holder has no claim on the justice of the Government. His claim is on its humanity. But has this House the right to apply the property of the assignee, to relieve the distress of the alienor? The mode of appropriation cannot alter the rectitude or turpitude of the measure—admit the right, and Congress may apply the whole saving to the public use. If the mover wishes merely to relieve the distressed, let him institute an inquiry as to the peculiar cases, and if proved, relief will be administered. He says, that, to give the alienee the highest market price, would be ample justice. Did the public mean to defraud them of the amount they had advanced? No. Yet it gives them a certificate, bearing a nominal fixed value, which, this very measure would immediately depreciate; and for this very depreciation, he would have a claim upon the Government for the difference.*

* The propriety of discrimination may be settled by this consideration. If the War had been protracted so as to render the United States unable to

This motion received but little additional support from its advocates. The allegation, that the original holder had not received the full value of his certificate, was often repeated; the hardship of the soldier was referred to; and strong appeals were made to the passions of the people by contrasting his situation with that of the purchaser. No impression was made. The friends of the public faith replied: "Do justice to those with whom you have contracted, by fulfilling your contracts. Then, if you think proper to make gratuities to those who have suffered from the necessities of the Government, do so."

"There is no debt," said Ames, "subsisting against the public, in favor of the original holders who have sold out. This motion is chargeable with partiality, and is inadequate to its *pretended* object. It would do injustice to many, and violate the sacred rights of property. The purchasers are secured by the contract, by the faith of the Government, by the Constitution. The measure is not practicable, and will produce confusion, corruption, and expense; will weaken, disturb, and disgrace the Government, and impair its credit."

"How," inquired Boudinot, "is this discrimination to be carried into execution? A great part of the debt was contracted by the clerks in office; who, when the continental money ceased, received millions in Loan Office certificates, in their *own names*, which were distributed among all the persons who furnished supplies. Can these ever be traced to the original bona fide creditor? Other certificates were taken out of the Loan Office by persons who were not concerned in making the Loan. Neighbors

pay more than 20 per cent. of the value of the certificate, what would have been the reply of the alienor to those who had purchased at 40 per cent., applying to have the excess of the cost refunded? You took the chance of its value when redeemed.

united in sending money by one person, who took out the certificates in his own name, and afterwards returned the money to the real lender. If we adopt this motion, we shall give room to such scenes of enormity, as humanity will be shocked at the prospect of."

The equitable basis of this procedure having failed, precedents were adduced by Madison, from the policy of Congress, and the history of England, to sustain it.

Congress had, in one instance,* resolved to make good the depreciation of the pay of the Army. But this resolution was expressly limited to those in service. As to persons who had retired, though on the previous day, no such provision was made. But that instance was wholly inapplicable. Not only was it a pledge by the United States to persons in its service, but it did not affect third persons. It did not take from one to give to another.

The conduct of England as to the South Sea speculation, was adduced. But that bore no analogy to this case. The Directors of the Company, having committed enormous frauds, were imprisoned, their estates confiscated, and the proceeds given to the company they had plundered. But the Government never interposed as to the transfers of stock by the other proprietors, which fluctuated in value from par to thirteen hundred per cent.

Another justification of the proposed discrimination was sought, in the policy adopted in respect to certain bills, called "Canada Bills," issued in payment of supplies for the French army to British merchants. By a negotiation between France and Great Britain, it was agreed by the former, that they should be redeemed at a liquidated value; and these, Madison observed, were received by the holders, in some instances, as low as seventy-five

* April 10, 1780.

per cent. less than their nominal value. But the report of this case shows, that the *holders* of the paper *concurred* in the liquidation. This precedent was therefore obviously inapplicable.

Another instance was also alleged. It was the case of Debentures issued in seventeen hundred and thirteen, in consequence of a deficiency in the civil list, to persons who had furnished supplies. They depreciated, and an act was passed by Parliament, authorizing the original creditors who had sold them, to redeem them from the assignees, by repaying the actual price with interest, and declaring all assignments void. But the debt contracted by this issue, for the support of the household of Queen Ann, was not liquidated, and was disallowed by a vote of the Commons.

In vain, were precedents sought to sustain this extraordinary proposal, to violate a contract in the hands of the assignee, assignable on its face, accepted by the original creditor in discharge of his debt—purchased with a full understanding of the parties, that its value was contingent upon remote circumstances, and its time of payment indefinite; and for which, the faith of Congress had been distinctly pledged in the address of seventeen hundred and eighty-three, of which the mover of this proposition was the author! *

"In enumerating the Public creditors," Madison remarked in that State paper, "the debts were due to a class of creditors, composed partly of such of our fellow-citizens as originally lent to the public the use of their funds, or have since manifested most confidence in their country, by receiving transfers from the lenders; and partly of those, whose property has either been advanced

* The original in Madison's autograph, is on the files of the Government.

or assumed for the public service. To *discriminate* the merits of these would be a task equally *unnecessary* and *invidious*. If the voice of Humanity plead more loudly in favor of some than of others, the voice of *Policy*, no less than of *Justice*, pleads in favor of all. A wise nation will never permit those who relieve the wants of their country, or who rely most on its faith, its firmness, and resources, when either of them is distressed, to suffer by the event."

In reply to the obligation of this pledge, Madison remarked, that at the period of its being given, the transfers were not numerous, and at little loss—that the number of the subsequent transfers, and the immense loss, had altered the case. It may be asked, whether, as this solemn act sanctioned, and encouraged, and increased the number of these transfers, it did not increase, if possible, the injustice of tampering with the rights they conferred?

It has been mentioned, that Burke, the original proposer of this discrimination, withdrew it. At the close of the debate, he stated, "that he deemed it altogether impracticable, and that he was not convinced that such a measure was honest and consistent with public faith. He did not think himself at liberty to give it his support. The United States have repeatedly pledged themselves in terms, plain as language can express, to pay to the bearer a specific sum; and to commit a violation of this promise, appeared to him, both unjust and impolitic. He believed and hoped, they had the ability to perform it; and, even in the case of inability, he was of opinion, should bankruptcy ensue from the honorable attempt to do justice, this would be preferable to a stain cast upon these States, at the commencement of their political career, by a cool and deliberate act of injustice to the public creditors—should we pollute our country

by suffering her to commit a breach of honor, it will be such a public calamity as no money can compensate!"

Other members, whose sentiments as to the obligations of national faith were not the most severe, refused their support to this proposition. After a long debate, the original Resolution passed; the amendment being voted for by only *thirteen* members, nine of whom were from Virginia. Such was the discredit cast upon it, that it was not proposed in the Senate.*

* Madison thus consoled himself for his failure in a letter to Dr. Rush, March 7, 1790. "If we are to take for the criterion of truth, a majority of suffrages, this ought to be gathered from those philosophical and patriotic citizens who cultivate their reason, apart from every scene, that can disturb its operations, or expose it to the influence of the passions. The advantage enjoyed by public bodies in the light struck out by the collision of debate, is but too often overbalanced by the heat, proceeding from the same source. Many other sources of involuntary error might be added. * * * Without looking, therefore, beyond innocent causes of fallibility, I can retain the sentiments which produced the late motion, notwithstanding the proportion of numbers by which it was outvoted," &c.

* Jefferson, writing from Paris to the American Bankers in Holland, remarked, "Here an opinion had arisen with some, and propositions had even been made in the Legislatures, for paying off the principal of these debts, with what they had cost the holder, and interest on that. This opinion is far from being general, and I am of opinion will not prevail." D. C. vol. ii. 451. His Biographer ascribes the small minority in its favor, to the influence of speculators—"as it is said, by the more potent appeals to the interests of the majority."—Life of Jefferson, i. 321. By George Tucker, Professor of *Moral* Philosophy in the University of Virginia.

CHAPTER LIX.

The great question raised in the fourth Resolution, 'That the debts of the respective States ought, with the consent of the creditors, to be ASSUMED, and provided for by the United States," was the next most important topic of discussion.

As the efforts of the Revolution were for a common object, from which a common benefit was to be derived, the burthens of it ought to have been distributed equally among the citizens of all the States, to be borne according to their respective abilities—but this could have been only effected by contributions to a common treasury, levied under the joint authority of the whole United States, or by loans raised on their joint credit, or by the disposition of the public lands, and of confiscated or of captured property, for their joint benefit, by their united authority.

Prior to the accession of the States to the Articles of Confederation, this might have been done by the delegates in Congress, who were chosen with plenary powers, by a direct commission from the people, to take care of the Nation; but it was a power only partially exercised, and, in a great degree, relinquished to the clamors of the State governments.

But a widely different policy prevailed. The general

credit of the United States, in Loans and Emissions, was employed for part of the Public charges—Requisitions on the States, in various forms, was another source of supply; while the spontaneous exertions of individuals in different modes contributed the residue.

From this state of things, and from the course of the War, it resulted,—that the burthens of the different States were necessarily unequal. The evidences also of their relative contributions were many of them imperfect, many of them lost. Their resources also were unequal. Some States had large bodies of public lands. In others, large confiscations had been made; and in some, vast aids were derived from captured property.

This combination of circumstances rendering it impossible to make any settlement of the State claims, which could produce strict justice, Hamilton remarked, that, "all that could be rationally aimed at was, to pursue such a course as promised *most certainly* the *greatest degree* of justice."

The debate on this important part of the Fiscal system was opened by Livermore of New Hampshire, in opposition to the proposed Assumption. From his preliminary remarks, it would seem, that the first object was to postpone the consideration of this branch of the Treasury Report beyond the session. This course was defended, on the grounds, that neither the State creditors, nor the States were anxious for it; that they had not applied to Congress; that possibly they were already satisfied with what the States had done; that the task of providing for the *real* debts of the Union was sufficiently arduous, and that the Assumption might disable them from doing justice to the Continental creditors; that the amount of the State debts was wholly unknown; and, before Congress determined to assume them, it was at least incumbent on them

to take care, that the accounts between the United States and the individual States, should be settled, and the balances ascertained.

This feature in Hamilton's report was so intimately connected with the other parts of his plan, that it was obvious, a rejection of it must defeat his whole financial policy; and, in the existing condition of the country, a remote postponement of it would have been equivalent to a rejection.

The friends of public credit had been apprised, in the course of the previous debate, of the intention of their opponents to take a decided stand on this question. They, therefore, entered upon the discussion with not a little apprehension as to their ultimate success, but with a determination to press the decision with the least possible delay. The arguments to postpone this part of the Report were examined and refuted by Laurence, Ames, and Sherman; whose remarks, without entering into a close investigation of the subject, took a wide view of the general motives which prompted the assumption. They were followed by Stone, who, after admitting the advantages of a uniform revenue, urged the objections that this system would necessarily increase the importance of the General Government, while it diminished that of the State Governments. As the plan contemplated a discharge of the debt by Imposts, that it would operate unequally, by throwing the whole burthen upon the consumers of foreign articles; that the Constitution of the United States did not authorize the measure. Its powers to collect revenue were for the purpose of paying the debts of the United States, but the State debts were not the debts of the Union. The debts of the States were of different value; and from this cause would result, a partial adoption of the scheme by the several States, and

individual creditors of the States, which would involve the necessity of a system of State taxation to discharge the unsubscribed part of the debt.

These objections were replied to in a very able speech by Roger Sherman. The early position held by Sherman in the public estimation, is shown by the fact, that he was appointed one of the committee of five members to draw the "Declaration of Independence." In the several Congresses elected during the Revolutionary war, he is seen to have filled a conspicuous place; and when that body, sinking in importance, confided its duties to a Committee of the States, he was selected of that Committee. Chosen a member of the Federal Convention, his course in that body shows the workings of a mind alive to the necessity of an enlargement of the powers of the Government, but, restrained as to its organization, by the opinions and prejudices of the State he represented. In the compromises which were adopted between State influence and popular rights, his mind advanced with the advancing opinions of the Convention towards a National Government; and, though the shackles of State opinions were not entirely thrown off, yet in all questions touching the great powers of National defence, commerce, revenue, public justice, his views were broad and explicit. As to the debts incurred by the States for the general cause, he would have provided, in the Constitution, a large and equal rule.

After declaring his opinion, that this Assumption should be confined to those debts which were incurred for common or particular defence during the war, he observed, that the objection of the tendency of this plan to augment the powers of the General Government was groundless—that both governments stood upon the broad basis of the people—being instituted by them for the general and par-

ticular good. As the Federal Government affected the greater concerns of the public, every thing which strengthened it, and enabled it more effectually to attain the end for which it was instituted, would be a desirable object, with the people, who had assigned to it bounds beyond which it could not extend its authority. It was the interest of every individual, and of the whole, that each Government should be supported within its proper limits. He denied the unequal operation of a revenue from Imposts; asserting, that the consumption of imported goods was proportioned to the ability of every citizen, and fell upon all the inhabitants of the United States. The constitutional objection was answered by the statement, that the Confederation, being unable to raise money directly, effected it through the intervention of the State Governments, and, therefore, the State Debts were, in fact, the absolute debts of the Union.

As to the argument from the different value of the State Debts, no debts would be assumed, but such as were liquidated and reduced to specie value. The suggestion, that some creditors would prefer holding the responsibility of the States to that of the United States, was met by the observation, that such a state of things could produce no difference in the result, because on the final settlement, the States would only be debited for that part of the debt which their creditors had subscribed to the general fund.

Sedgwick examined, at length, the objection, that the tendency of the assumption was to produce a consolidated Government—the favorite theme of the opponents of the Constitution; and, until they obtained possession of the power of the country, the incessant watchword of their proscriptive policy. The allegation, that the withdrawal from the States of the necessity of exercising this power

of collecting their own revenue, to discharge their own debts, would destroy them, was met by the observation, that such an apprehension involved the idea, that the State debts were never to be discharged; and, if such was to be the consequence, this result was inevitable, as the discharge of their debts must eventually take place.

After a brief commentary on the constitutional power of Congress to assume the debts, he considered the policy of the plan proposed. Assuming, that debts incurred for the common defence should be a common charge, he inquired, how, if the idea were adhered to, of a previous settlement of the accounts, this debt was to be discharged? There were but three alternatives: the assumption, as proposed—a compulsory collection from the delinquent States—or a voluntary contribution to the largest creditor States, either by the General Government, or by the comparatively debtor States.

The evils of the second alternative, were too manifest to be considered. The hopelessness of the third, was shown by the experience of the United Provinces, and by the jealous pretensions existing in the different States, in favor of their respective claims. After adverting to the various causes which had produced a difference in the relative magnitude of the State Debts, he expatiated largely on the consequences of permitting these debts to remain unextinguished; the inequality of the burthen; the hostility between the State and National Governments; the interference in their legislation; and strongly urged upon Congress the increased difficulties which would result from delay in adopting the principle of the Report, by inducing the States to proceed in the policy of funding their own debts. These, constantly fluctuating and shrinking from the grasp of the public creditor, afforded only a profit and employment to an army of speculators, roaming from

town to town, and village to village, purchasing of the needy holder in the moment of disappointment, when the market was low, and selling when it rises.

This day's discussion was closed by a proposition from Madison, to add a proviso, that effectual provision should be at the same time made for the liquidation of, and crediting to the States, the whole of the expenses during the war—to be ascertained according to the best evidence the nature of the case would admit.

White of Virginia, stated, that the effect of the proposed assumption would be, that the States which had made exertions and nearly paid the whole of their proportion of the Federal Debt, would, notwithstanding, be compelled to contribute to the payment of the delinquencies of others; he therefore contended, that whatever sum might, on the liquidation of accounts, appear to have been advanced by a State beyond its equal proportion, should be assumed and no more. Virginia had already adequately funded her debt at six per cent., and regularly paid the interest. It was his opinion, that it was the intention of Congress to fund all the debt, but to make no provision for its discharge. If there were no Assumption, and the States should be driven to an excise system, still he thought a greater evil was to be apprehended from the Assumption.

After reproving the unworthy jealousies which preferred considerations of sectional benefit or injury to the general good, Ames avowed his determination to rest his argument upon general principles, which, like truth, upon which they were founded, had an unchangeable and uncontrollable authority. In examining the justice of this measure, he reminded the House, that, in seventeen hundred and seventy-five, the citizens of America, with a solemn appeal to Heaven, made a common cause of their

violated liberty. Had it been foreseen, that particular States were to suffer more than a common share of the danger; that the benefit was to be general, but the burthen partial, would they have drawn the sword?

But were the State debts contracted for the war? The Books in the public Offices show that they were; who could deny it? Part of this charge was contracted by Massachusetts, before Congress assumed the exercise of its powers. The first ammunition that repulsed the enemy at Lexington, and made such havoc at Bunker's Hill, was purchased by that State; and appears in the form of their State Debt. While paper money circulated, the war was a common charge; when it ceased, the States were called upon. They, in their turn, called upon the towns—these upon the classes—the classes upon individuals. Is it just, that those who made the greatest exertions, should be most burthened—while those who made the least should escape the debt?

The different promptitude with which the States exhibited their claims, also would produce the most variant results. To some States, a commission had been sent, at an early period; to others, much later. Should circumstances so adventitious constitute a plea for the UNION to disown its debts? By this Constitution, the funds are given to the UNION. Shall not the debts follow the funds? Shall we first disable the States from paying, and then refuse payment ourselves? Is it just, that officers, who fought side by side, should have a different recompense?

But as a question of policy—How would it strike the people of England, to divide their debt upon several counties, and to establish independent revenues for its security? Habit has made an idea equally dangerous, strangely familiar in our own country. Is it wise to adopt a system which makes it absolutely inevitable for

the National and State Governments to clash and interfere? Let us preserve the powers of both unimpaired. To combine our citizens in common views—to make the revenue laws uniform, to extend permanent protection to trade and manufactures, to relieve our husbandry from dry taxes, are objects worthy of the Government.

It is affirmed, that the Assumption tends to the consolidation of the States, and to the destruction of the State Governments. The entire powers of peace, war, and treaty, are given to Congress—of consequence, the power of raising supplies, and when they fail, of contracting debts. The entire debt was created by the war. It is in strict conformity with the spirit and letter of the Constitution to assume it, for it cannot be improper to exercise that power in this instance, which, in all like cases, is exclusively vested in Congress. If the Assumption tends to consolidation, is the reverse, tending to disunion, a less weighty objection?

This appeal was decisive, and the question being taken,* the amendment, which proposed to limit the Assumption, to the balances that should be ascertained, was negatived by a vote of thirty-two to fifteen.

The motion of Madison being read; after a few introductory remarks, he proposed to add a *proviso*, in case a final liquidation of the accounts, and provision for the payment of the balances due from debtor to creditor States, should not be made prior to a day to be named, that then, the debts assumed should be apportioned according to the ratio of representation; and provision be made for the payment of the balances from the debtor to the creditor States. He subsequently withdrew this proposition, and moved,† in lieu of it, "that the amount of the

* February 26. † March 1.

debts actually paid by any State to its creditors, since a given day, to be stated, should be credited, and paid to such State on the same terms as should be provided in the case of individuals." This motion was followed by a series of resolutions from Ames, pursuing Hamilton's Report, having for their object, a settlement of the accounts between the United States and the individual States, in which the latter should be charged with the advances made to them by the United States, and with the amount of their respective debts, assumed, with the consent of the State creditors—with interest at six per cent. on the amount, liquidated at specie value; and that they should be credited with all moneys paid, supplies furnished, and debts incurred for the United States, and with all expenditures during the war for general or particular defence, with like interest.

This settlement was to be made under the authority of Commissioners, who, in case a ratio of adjustment was not prescribed by the present Congress, should have full power to fix such ratio, and to establish the principles of such settlement, in conformity to these resolutions; which were to be final and conclusive. The claims to be exhibited by a fixed day, and the adjustment then to proceed without receiving further claims.

The following day, a Report was received from the Department of the Treasury, giving an estimate of the necessary appropriations; when a motion was made by White, that the Secretary of the Treasury should be instructed to report such funds, as he thought might be applied to the discharge of the interest on the debts of the States, if assumed by Congress. After much discussion, this motion prevailed by the casting vote of the Speaker.

The debate was then resumed on Madison's amend-

ment, so altered as to embrace the interest of the State debts. It was ultimately negatived.

This decision was followed by a motion to discharge the Committee from the further consideration of the Assumption, until the members had time to digest it; which was combated by Smith, of South Carolina, Laurence and Sedgwick; and supported by Seney, White and Madison, the latter of whom, proposed, as an amendment, to discharge the committee, until the Report of the Secretary of the Treasury as to the contemplated resources to meet the assumed debts, should be received. This motion, being considered as an indirect mode of getting rid of this part of the Report altogether, although such intention was disclaimed, was negatived. Some advantage from the hostility to increased, and perhaps obnoxious taxes, may also have been anticipated. The hope of delay, if indulged, was frustrated by a Report from the Secretary of the Treasury on the next day, showing the sources of Revenue in contemplation for this object.*

The debate on this subject, having been interrupted by the consideration of a bill, founded on a Report of the Secretary of the Treasury, for the remission of fines and forfeitures, was resumed on the eighth of March; and

* The report of the 4th March, on the necessary provision for the State debts, proposed an increase of the general product of the duties on goods imported, by abolishing the *discount* of ten per cent., allowed by the act, for laying duties in favor of goods imported in American bottoms; and by an *addition* of ten per cent., to the existing rates, on goods imported in Foreign bottoms, with some exceptions—additional duties on Sugar and Molasses; a duty on Snuff and other manufactured Tobacco—increasing the duty on the importation of these articles, and granting a drawback on their exportation, in favor of the manufacturer—additional duties on pepper, pimento, spices, and salt. Duties on pleasure carriages—on licenses to practisers of law—and on certain law writings, and various kinds of writings—on sales at auction, except when made by process of law, or in cases of acknowledged insolvency—and upon wines and spirits, sold by retail.

after an animated discussion, the question was taken on the ninth, and the resolution for an assumption was carried by a vote of thirty-one to twenty-six.

The several alternatives proposed by Hamilton, as the basis of a modification of the debt, were then considered. An amendment to the first was rejected. The second alternative, to have the whole sum funded at an interest of *four* per cent., irredeemable by any other than annual payments of five dollars on account of the principal and interest, the creditor to receive, as a compensation for the reduction of interest, fifteen dollars and eighty cents, payable in lands, as in the prior alternative, was next considered.

The irredeemable quality was much objected to. It was supported on the ground, that it was but a fair equivalent for the reduction of the interest; and would be a means of inducing the concurrence of the Foreign creditors; and that it contemplated a redemption of the debt, within as short a period, as the probable capacity of the country could effect it. It was opposed, for the reasons, that it would tend to render this country tributary to those creditors, and would defer the extinguishment of the Debt; and was negatived.

The next alternative—to have sixty-six and two-thirds dollars funded immediately at an annuity of six per cent., irredeemable by any payment, exceeding four and two-thirds of a dollar per annum, on account of principal and interest, and to have, at the end of ten years, twenty-six and eighty-eight hundredths dollars funded at the like interest and rate of redemption, was also objected to, on the ground of the irredeemable quality.

The objections to this proposition were replied to by Ames, by whom, a large view of the policy of the Secretary's Report was taken—and every feature of it closely

examined. The necessity of compromising with the creditors was shown; and the full value of the equivalent, by funding the debt, by rendering a portion of it irredeemable, and by establishing a Sinking Fund for its ultimate redemption, was asserted.

The objections were renewed the succeeding day, and were supported by Madison, who alleged, that these proposed modifications could not be reconciled with the tenor of the public engagements; and must rest for their justification on the circumstances of the country; that his object was, to simplify the debt; and that, therefore, he would authorize the Government to pay it off at the rate of ten dollars per annum—a measure wholly impracticable, in the then condition of the country. These observations were followed by a motion to reject the whole proposition. The discussion as to the irredeemable quality was resumed. Tucker,* by a series of calculations, sought to show, that this quality would greatly increase the debt.

In reply, Laurence contended, that the Secretary's plan, demonstratively provided for its dimunition; and adverted to the advantages which would flow from foreigners speculating in the Debt, which he thought ought to be encouraged.

Madison took a different view. He said, that "foreigners speculating in our funds would induce a spirit of luxury; that the pernicious consequences of credit had been severely felt; that our experience did not justify the supposition, that an influx of active property or money, would be employed in agricultural improvements. He did not think, if a medium to the amount of one-fourth of the value of all the property of the United States was to be thrown into circulation, that any more land would be cultivated.

* Of Virginia.

These observations led to an animated debate, which was closed by Ames, in a reply, explanatory of Hamilton's policy.

The irredeemable quality of the Debt, he asserted, did not diminish the present or probable capacity of the public to redeem it. All the money that can be provided for paying off the Debt, may still be employed for the purpose, though the irredeemable quality should remain. While the Debt is at par, or below par, the Government can purchase. It also has the right to redeem at a given rate; as long as interest is high, it will not rise to par, and thus long, it can be bought at a discount. These purchases will raise the price, diminish the quantity in market, and thus benefit the mass of the creditors. By the proposed plan, the Government will gain thirteen millions as an equivalent for the postponed power of redeeming; and will, from the probable state of the revenue, sacrifice nothing; for the right to redeem is worth nothing, if the public has not the means to do it. By this very operation, thirteen millions are redeemed in advance; and, by the principles of the Report, it will have twenty years to buy stock on better terms than paying it off. The value of the stock will depend on the demand. The European market will determine the value. To qualify it for that market, the irredeemable quality must be retained; and in proportion as it rises, there will be the greater facility of making loans. The motion to strike out the irredeemable quality was lost.

It was then proposed by Fitzsimmons, to insert a higher rate of reduction than that contemplated in the Report, in order to produce a more rapid extinction of the debt. Madison urged a still higher rate, when, the original sum being expunged, the amendment passed, leaving the rate in blank. The two remaining proposi

tions for annuities upon certain contingencies were negatived.

During the preceding debate, the attention of Congress had been called to a memorial from the Society of Friends, for the abolition of the slave trade; which, after giving rise to much undue excitement, resulted in the adoption of resolutions, affirming the right of importing slaves, until the year eighteen hundred and eight; declaring, that Congress had no right to interfere with their emancipation or treatment in any of the States; but, asserting their authority to prevent American citizens from engaging in the slave trade, for the supply of foreign countries.*

This, and other subjects of moment suspended the action on the Treasury Report, until the twenty-ninth of March, when the Resolutions adopted by the Committee of the whole were reported to the House. During the interval between the vote on this subject and this time, some of the members of Congress from North Carolina had taken their seats.

It is to be observed, that, while South Carolina had recently instructed its delegation to apply to Congress

* Ames to Minot, March 23, 1790: "The Quakers have been abused; the Eastern States inveighed against; the Chairman rudely charged with partiality. Language low, indecent, and profane, has been used; wit, equally stale and wretched has been attempted. * * * The Southern gentry have been guided by their hot tempers, and stubborn prejudices, and pride, in regard to Southern importance and negro slavery; but, I suspect, the wish to appear in the eyes of their own people, champions for their black property, is influential. An election this year makes it the more probable; and they have shown an uncommon want of prudence, as well as moderation; they have teased and bullied the House out of their good temper, and driven them to vote in earnest on a subject, which, at first, they did not care much about. They declare the Constitution in regard to the slave trade, &c. I disapprove the declaring Constitution. It is risky—it is liable to error, by false reasoning and carelessness, which will not reason at all."

to *assume* the public debt and make provision for it, as part of the debt of the Union, North Carolina, in adopting the Constitution, had proposed an amendment, that Congress should not, directly or indirectly, either by themselves or through their Judiciary, interfere with any of the States in the redemption of the paper money then in circulation, or in liquidating and discharging the public securities of any of the States; and, that each State should have the exclusive right of legislating on this subject.*

This recommendation was regarded by several of the members of that State, as a conclusive expression of its wishes. In conformity with this opinion, when the Report on the Public Credit, was brought before the House, after adopting the three first Resolutions, the fourth, recommending the assumption, was ordered, at the close of a warm debate, to be recommitted by a majority of two votes; which was followed by a decision, also to recommit the remaining propositions, as essentially connected with the assumption. The discussion of this subject was opened by a member from North Carolina, who protested against the Assumption, as a measure particularly injurious to the State he represented.

He was replied to by Sedgwick, who was followed by Page, Stone, Jackson, and Moore, in opposition; and by Colonel Bland, Goodhue, Lawrence, Smith of South Carolina, Hartley, and Wadsworth, in support of the measure. The topics before urged were again discussed, at large; and embraced minute details of the operation of the system on the several States they represented.

* An amendment was also proposed, that no Navigation Law regulating commerce should be enacted in Congress without the consent of two-thirds of the members present in both Houses.

The consideration of this subject gave place to a bill from the Senate for the punishment of certain crimes against the United States, and to an act for the regulating the intercourse with the Indian Tribes; pending which, several petitions were presented by the manufacturers of tobacco and snuff, in opposition to the duty then contemplated by the Secretary of the Treasury, to be applied to the discharge of the State debts.

The debate on the Assumption was resumed on the twelfth of April, in a very full speech by Sherman, who urged, with much force, the various reasons in favor of the measure. He was answered by White, who contrasted the interests of Virginia with those of Massachusetts; and contended with great warmth against the proposition. After much debate, during which various motions to modify were rejected, the question was taken; and the Assumption was negatived by a majority of two votes.*

When this result was announced, Sedgwick arose; and, after recapitulating the various claims of Massachusetts upon the country, closed his observations by a declaration, that the postponement of this question until the final settlement of the accounts, was regarded as a mere pretence for delay, and a mockery of the just claims of the creditors; and gave a solemn warning of the dangerous consequences to be apprehended from an invasion of the funds set apart by Massachusetts, for the discharge of the State debt, while she was denied the relief to which her exertions entitled her. Gerry then proposed, that this part of the Report should be referred to a committee, consisting of a member from each State, which motion was laid on the table.

The Report on Public Credit was not again brought before the House for several days, it being engaged upon

* 31 to 29.

a bill to regulate the Post Office Department in the course of which, a decision was made upon one section, of not a little moment—that, which empowered the President to establish Post Offices and Post Roads. This section it was moved to expunge, as it was a power vested in Congress by an express clause in the Constitution; and, therefore, could not be delegated; that the objects connected with it are of great weight, in themselves; and properly cognizable only by the Legislature of the Union. On this ground, after some debate, it was expunged.

On the fifteenth of April, it was proposed; to take up the Report upon Public Credit. By some of the members, it was suggested, that the Committee should be discharged from the consideration of this subject, until a plan of accommodation as to the Assumption, could be agreed to. The House was much agitated for a long time; and, a variety of motions respecting order, made. The question for going into committee was at last carried. Seney moved to strike out the clause relating to the debts of the particular States. He was supported by White, and opposed by Sherman, Gerry, Ames, and Bland.

The following day, Fitzsimmons proposed to appoint a Committee to devise a plan for the Assumption—a mode of paying the interest on the sum assumed; and a mode of settling the accounts between the United States and the States. This being objected to, was not pressed.

The failure of a measure, in the success of which so large a part of the Union was interested, and which had so recently received the sanction of the House, could not but produce wide-spread disappointment among that portion of the people, which had been most zealous for the establishment of the Constitution.

One of the great objects to which their hopes were directed, was relief from the burthens the Revolution had imposed. They had not labored for theoretical improvements in Government, but for practical benefits. The Confederation was weak, they wished to give it strength. It had been partial, they desired to make it equal. It was without order, they hoped to introduce system. To prevent the collisions of the States, they had sacrificed the pride of States; and had subdued their jealousy of power to obtain protection. But, having established a Government, they still looked, rather with hope than with confidence, to the attainment of their wishes. When the Report for the restoration of the public credit passed into their hands, and they saw this long desired result promised to them, by means as simple as they were effective, the public joy was unbounded. They beheld the nation rising released from its fetters; the public faith redeemed; and a large futurity of happiness, expanding before them. The rejection of this great, important proposition filled them with dismay.

Those nearer the scene, who had been unwilling to listen to the suspicions to which late events gave birth, were, at last, compelled to the alarming belief, that the faction which had opposed the adoption of the Constitution, had, by the defection of one of its most able champions, obtained the mastery of the Government.

Under such circumstances, it becomes interesting to remark the effect which this result produced upon Hamilton.

Seeing, that this blow was aimed directly at himself; that his defeat upon this question was a defeat of all his extensive plans, and menaced the destruction of his hopes of future usefulness, it might be supposed, he would have sunk under the disappointment. But despondence formed

no part of his character. Calling up the resources of his nature, he was alert in cheering the discouraged feelings of his friends; and, all that appeared to the minutest observation of him was a more concentrated resolution—a stronger purpose.

While his high sense of the demands of public justice reprobated the false principles, which had governed the policy of the now leader of the opposition; and, although he could not fail to recall the numerous evidences given in their private intercourse, of his genuine sentiments, yet his feelings towards Madison were free from acrimony. When his defection was first mentioned to him, he remarked, "I will not give him up yet;" and, to an intimate friend, who subsequently commented with indignation on his apostasy, his only reply was—"alas, poor human nature!"

The delays, which had been sought at an early period of this discussion, excited alarm; but it was an alarm rather at the heterodox opinions which were disclosed, than as to the ultimate issue of the question. When these delays were seen to be the result of concert, they assumed a new aspect; and it was feared, that a deliberate plan had been formed—to sponge the debt.

The press indulged in violent invectives against the opposition. Mercantile negotiations were suspended, and a convention of the public creditors was recommended.

The several alternative propositions in the Report, were now again brought forward, and much modified. Sherman proposed, so to alter the third, as to admit of the Assumption of specified amounts for each State; and, to leave the balance to be provided for by the respective States, until a final settlement of accounts with the United States.

This proposition was debated with great earnestness,

and received increased interest from the decided stand now openly taken by Madison. He denied,* that the State Debts could, in any point of view, be considered as actual debts of the United States; or that Congress was bound to assume them, until the accounts were settled, and the balances ascertained. He controverted the proposition, that, as the United States were invested with the great sources of Revenue, they were therefore bound to the Assumption, for the alleged reason that the operation of a Federal Revenue would be, to reduce the amount of the contribution of the States to the Public Debt, in the case of the Eastern States, from one-fourth to one-sixth. He asserted, that, as far as public opinion could be ascertained, the great majority of the Union was hostile to the measure. He indicated, as the evils of the Assumption, that it would concentrate the great mass of the debt near the seat of Government, where the Revenues would remain; and, that a very large amount of it would go into the hands of foreigners, thus exhausting the country to discharge the interest. Its effect, also, he declared, would be, to increase, perhaps perpetuate the public debt; if being his opinion, that the United States and the several States could discharge the debt with greater ease, and in less time, than the United States alone; as the latter were circumscribed in their resources, while the two, conjointly, could command every means of revenue.†

As to the remark, that the Assumption had been proposed in the Convention—after admitting the fact, he inquired, why it was not incorporated in the Constitution? That it was not, he alleged, was evidence of the apprehension that it would have been disapproved. Adverting

* April 22.

† "I cannot reconcile," Cabot wrote, "Mr. Madison's present conduct with

to the situation of the respective States, he asserted, that Virginia had contributed as much as any other State, during the war; and, since the peace, had done as much to discharge her debt; and, on a final settlement, would be found a Creditor of the United States; that, without the Assumption, she would have to provide for three, while under it she would be charged with five millions.

To pay this debt, they would be called upon by an Excise;* "a system, unequal with respect to different parts of the Union; unequal to various parts of the same State; giving arbitrary powers to the Collectors, and exposing the citizens to vexatious searches—opening a door to frauds and perjuries; and tending equally to vitiate the morals of the people, and to defeat the public Revenue; and, so expensive, that, in many parts, the expense would exceed the Revenue collected." He questioned, also, the force of the argument, that the Assumption would equalize the Revenue; but, laying aside all other objections, he confessed, "that he was much inclined to doubt, whether it could be carried into execution."

These remarks gave rise to a warm contention, as to the relative claims of the several States; which led to a call for the statement of the moneys paid to, and received from them. A Report was forthwith made by the Secre-

his former principles. I conclude, that his principles do not now guide him, or he has changed them. He was, once, sensible of such a divided sovereignty" (in the States) "as left the supremacy nowhere; and he would then have thought, that the powers which must be exercised by the States, in providing for their own debts, are such as belong to a Supreme Government only, and cannot, safely, be left to subordinate ones."

* Madison writes, July 2, 1791: "The excise on spirits distilled in the country, will probably take place. In fact, considering the aversion to direct taxes, and, that the imports are already loaded, I *see nothing else that can be done.* Besides, the duties on imported rum require a proportional one on country rum, and this a duty on other spirits."

tary of the Treasury, containing a full exhibition of the public accounts of the Revolutionary War.

In reference to the inference sought to be derived from the proceedings of the Federal Convention by Madison, Gerry, also a member of it, remarked: "It is said, the Federal Convention, having rejected the proposition for assuming the debts, the power ought not to be exercised by Congress; but, so far was the Convention from doing this, *that there was no opposition to the measure!* It was urged by some of the members, and I confess myself to be of the number, that, at the same time the debts were assumed, provision should be made for those States who had exerted themselves to sink their debts; and it was observed by a member, 'that, as the Constitution gave sufficient power to Congress, to assume the debts, they undoubtedly would assume them, and make the other provision mentioned.' He thought it eligible, therefore, to refer the whole matter to Congress; and his proposition met the approbation of the Convention." This statement was confirmed by Sherman, the member alluded to.

The fact, that Madison, at a future period, recommended, officially, the assumption of State debts similarly incurred, furnishes a marked comment on his present course.*

It was now resolved, that the Committee be discharged from the consideration of the Assumption, and a bill was ordered to provide for the debt of the United States. This bill, being reported on the sixth of May, was made

* After stating the amount of the National debt, he observed, in a message to Congress of December, 1815: "There will probably be some addition to the public debt, upon the liquidation of various claims which are depending; and a conciliatory disposition on the part of Congress, may lead *honorably* and *advantageously* to an equitable arrangement of the *militia expenses*, in-

the order of the day for the twelfth of that month; but its consideration was then postponed, to give time for the discussion of Resolutions founded on the Report* of a select Committee, recommending "an enhanced tonnage duty on foreign vessels."

By these Resolutions, the duty was proposed to be raised from fifty to one hundred cents per ton, on Foreign bottoms. An excited debate arose on the proposed discrimination. It was supported, as the surest mean of encouraging navigation; and, as a just retaliation for the illiberal policy under which the United States were suffering.

Near the close of the debate, Madison avowed himself friendly to the proposition; but expressed his doubts of its producing the intended effect upon Great Britain, against whom it was directed. The United States could not, at that time, compete with her shipping. He also doubted much, of the policy of laying this duty on *the vessels of France.* Her trade would probably prove three times the benefit of that of any other commercial country; and she had conferred important privileges on American commerce. To the objections of the Southern States, he replied, that a maritime force in case of war was their only hope; *not that he was in favor of a navy;* but the eligibility of an increase of resources which might, on such emergency, be converted into a maritime force, was obvious. He intimated, that it might be good policy to interdict the vessels of all nations from carrying our produce!

curred by the several *States, without* the *previous sanction* or *authority* of the Government of the United States."

* This Report was on a petition praying Congress to adopt measures to prevent foreigners carrying the commodities of the United States to any port or place where their citizens were prohibited carrying them.

Ames remarked, that "he had anticipated something which would conduce much to the advantage of our allies; but it had terminated in a proposition to *testify our gratitude to France.* The great design in the increase of the tonnage was, to increase our own navigation; but the gentleman's plan was, to testify our gratitude to our allies, by waging a commercial war with nations not in treaty."

The proposed augmentation of duty passed. This vote was followed, by a Resolution offered by Madison, that the vessels of such nations "should not be permitted to export from the United States any unmanufactured article of its growth or produce." This prevailed by a large majority. An amendment was then added, that this resolution should not extend to the vessels of nations, which permitted the importation of fish and other salted provisions, grain, and lumber, in vessels of the United States. By this amendment, France, Spain, and Portugal, were to be exempt from its operation; and it was made to bear directly upon Great Britain.

A bill concerning the navigation and trade of the United States, containing this discrimination, was reported by Madison, on the seventeenth of May, but was rejected. He then proposed countervailing regulations, which passed in Committee; but, were not adopted. An act was then passed, "imposing duties on the tonnage of ships and vessels," which was a substitute for the previous act; continuing the same rates of duty, but making a different application of them, in some instances. It was of indefinite duration.

CHAPTER LX.

Amid these exciting discussions, Jefferson reappeared on the American stage of politics. Paris was no longer a quiet abode. A new prospect opened before him. He will be seen to have been watching and speculating upon, condemning and approving the new Government, as the chances of its adoption fell and rose. While affecting a love of retirement, as was his wont, when contemplating a new ascent for his boundless ambition, he betrayed his aspirations. "There are minds," he wrote, "which can be pleased by honors and preferments; but I see nothing in them but envy and enmity. It is only necessary to possess them, to know how little they contribute to happiness, or rather, how hostile they are to it. . . . . I had rather be shut up in a very modest cottage, with my books, my family, and a few old friends, dining on simple bacon, and letting the world roll on as it liked, than to occupy the most splendid post which any human power can give."* Six months rolled on; the adoption of the Constitution, and the election of Washington as President, became certain to Jefferson's mind.† Washington confirmed his belief, that the General Government had been adopted by eleven States.‡

* Jefferson's Works, i. 292. † Ibid. ii. 355.

‡ Sparks, ix. 427; August 31st, 1788.

Jefferson now resolved to return to America, and, a few weeks after, asked leave of absence from his mission for a period of "between five and six months." "Relieve me," he wrote to Jay, "as soon as possible from the anxiety of expectation, and the uncertainty in which I shall be." * A fortnight later, in order to keep himself in view, he wrote to Washington, † announcing his purpose. "I hope," he says, "to be able to consult our new government in person. . . . I shall hope for the pleasure of personal conferences with your Excellency on the subject of this letter, and others interesting to our country; of getting my own ideas set to rights by a communication of yours, and of taking again the tone of sentiment of my own country, which we lose, in some degree, after a certain absence." This letter pronounced in behalf of the Government's possessing "every resource of taxation and credit;" of a "maritime force;" of a navigation law, (if any be wise,) discriminating "in favor of nations in treaty," and of the whale fishery. Month followed month, but no leave of absence came. Wearied with suspense, he urged Madison as to his return. "I hope," ‡ he writes, "to see you in the summer; and that, if you are not otherwise engaged, you will encamp with me at Monticello for awhile." Soon after, § he writes again to Washington, "though we have not heard of the actual opening of the new Congress, and consequently have not official information of your election as President of the United States, yet, as there never could be a doubt entertained of it, permit me to express here my felicitations, not to yourself, but to my country. Nobody, who has tried both

* Jefferson's Works, ii. 388; November 19th, 1788.

† Ibid. ii. 404; December 4, 1788.

‡ Ibid. ii. 445; March 15th. 1789.

§ Ibid. ii. 463; May 10th, 1789.

public and private life, can doubt, that you were much happier on the banks of the Potomac, than you will be at New York. But there was nobody so well qualified as yourself, to put our new machine into a regular course of action; nobody, the authority of whose name could have so effectually crushed opposition at home and produced respect abroad. I am sensible of the immensity of the sacrifice on your part. Your measure of fame was full to the brim; and, therefore, you have nothing to gain. But there are cases wherein it is a duty to risk all against nothing, and I believe this was exactly the case." Again he asks for leave of absence, declaring his intentions to resume his mission. This elaborate flattery is followed by extracts from letters of Thomas Paine, dissuading the appointment of a Minister to England.* His anxiety to return increases. Again he writes Madison as to his *congé*. "My baggage has been made up more than a month, so that I shall leave Paris almost in the instant of receiving the permission." The solution of this anxiety was not long delayed. Madison, in part, understood him. The approaches to the President had not been in vain. His aim was reached, and Madison, at this time, propounded to him the inquiry, whether he would accept an appointment at home, under the new government. Jefferson's reply is characteristic. "You ask me, if I would accept any appointment on that side of the water? You know the circumstances which led me from retirement, step by step, and from one nomination to another, up to the present. My object is a return to the same retirement. Whenever, therefore, I quit the present, it will not be to engage in any other office; and, most especially, any one which would require a constant residence from home." †

* Jefferson's Works, ii. 465; May 10, 1789.

† Ibid. iii. 26; August 28, 1789.

Washington, it has been seen, announced to Hamilton, on the twenty-fifth of September, his intention to appoint Jefferson Secretary of State; and on the eighth of October, Madison wrote to him: "I wish, on a public account, to see you as soon as possible after you become informed of the new distinction provided for you. It is of infinite importance, that you should not disappoint the public wish on this subject. Let me particularly entreat you not to yield hastily to objections. The President is anxious for your acceptance of the trust. The *Southern* and *Western* country have it particularly at heart. To every other part of the Union it will be particularly acceptable. . . . . Drop me a line the moment you get on shore. If I should be gone from Philadelphia, your letter will follow. My direction will be given for that purpose." Five days later, Washington communicated to him his appointment. On the twenty-third of November, Jefferson arrived at Norfolk, and, on receiving his commission, addressed the President in this wise: "I am truly flattered by your nomination of me to the very dignified office of Secretary of State; for which, permit me here to return you my humble thanks. Could any circumstance seduce me to overlook the disproportion between its duties and my talents, it would be the encouragement of your choice; but when I contemplate the extent of that office, embracing, as it does, the principal mass of domestic administration, together with the foreign, I cannot be insensible of my inequality to it; and I should enter on it with gloomy forebodings from the criticism and censures of a public, just indeed, in their intentions, but sometimes misinformed and misled, and always too respectable to be neglected. I cannot but foresee the possibility, that this may end disagreeably for me, who, having no motive to public ser-

vice but the public satisfaction, would certainly retire the moment that satisfaction should appear to languish.

"On the other hand, I feel a degree of familiarity with the duties of my present office, as far, at least, as I am capable of understanding its duties. The ground I have already passed over, enables me to see my way into that which is before me. The change of government, too, taking place in the country where it is exercised, seems to open a possibility of procuring from the new rulers some new advantages in commerce, which may be agreeable to our countrymen. So that, as far as my fears, my hopes, or my inclination may enter into this question, I confess they would not lead me to prefer a change.—But it is not for an individual to choose his post. You are to marshal us, as may best be for the public good; and it is only in the case of its being indifferent to you, that I would avail myself of the option you have so kindly offered in your letter. If you think it better to transfer me to another post, my inclination must be no obstacle; nor, shall it be, if there is any desire to suppress the office I now hold, or to reduce its grade. In either of these cases, be so good only as to signify to me, by another line, your ultimate wish, and I shall conform to it cordially. If it should be, to remain at New York, my chief comfort will be to work under your eye; my only shelter, the authority of your name; and the wisdom of measures to be dictated by you, and implicitly executed by me.

"Whatever you may be pleased to decide, I do not see, that the matters which have called me hither, will permit me to shorten the stay I originally asked; that is to say, to set out on my journey northward, till the month of March. As early as possible in that month, I shall have the honor of paying my respects to you in New York. In the mean time, I have that of tendering you

the homage of those sentiments of respectful attachment, with which I am, sir, your obedient and most humble servant."

Madison wrote the President: "A few days before I was allowed to set out from New York, I took a ride to Monticello. . . . I was sorry to find (Mr. Jefferson) so little biassed in favor of the domestic service allotted to him, but was glad that his difficulties seemed to result, chiefly from what I take to be an erroneous view of the kind and quantity of business annexed to that, which constituted the foreign department. He apprehends that it would far exceed the latter, which has of itself no terrors to him. On the other hand, it was supposed, and I believe truly, that the domestic part will be very trifling, and for that reason improper to be made a distinct department. After all, if the whole business can be executed by any one man, Mr. Jefferson must be equal to it. All whom I have heard speak on the subject, are remarkably solicitous for his acceptance; and I flatter myself, that they will not in the event be disappointed." *

The confidence reposed by the President in Madison, had, to a certain extent, been confirmed by his final course in the Federal Convention, in the advocacy "of a strong and energetic Government." † He saw him as he then was, not as he subsequently represented himself. But still Washington wisely looked to the state of public opinion in the organization of his Cabinet. Oblique as Jefferson's views were as to the New Constitution, and uncertain as his opinions proved to be of a National policy; in his letters to Washington, he had carefully placed himself on ground acceptable to him. And nothing can be more foreign to the truth, than that he selected him as a

* Sparks' Washington, x. 42; January 4, 1790.

† Washington to Hamilton.

counterpoise in favor of popular opinions or interests. Jefferson's actual views at that time, as to the principles on which the Government was to be administered, as far as known to the President, were in accordance with those of Madison, of Hamilton—of his own. But would his appointment be acceptable to the public? Madison saw this high prudence, perhaps he saw a doubt in Washington's mind; and hence his studious care to impress him with the belief, that the selection of Jefferson would satisfy the feelings of those parts of the United States where he was best known.

His professed desire for retirement, may have imposed on the directness of the President's mind, so consonant it was with his own true feelings; though, of retirement, Jefferson had not a serious thought. But his hesitations between resuming his mission, and the acceptance of a home appointment, probably were real.

The attractions of a diplomatic life at Paris, which peculiar circumstances, in his case, increased, were great. Paris was then, as now, the abode of pleasure. Power, genius, wealth—all threw their jewels into her lap. Whoever reigned, she still was queen, reigning above all. To every form of gratification, Jefferson was keenly alive, nor had any gratification the alloy of a serious care, for he held his place without a feeling of responsibility near. "That which attaches me to my place is," he wrote, "that I can perform my duties without being seen by those for whose advantage I fill it." Thus I would spend my days. And when a detected complicity hastened him away, believing at the moment, that the "French Revolution would end in a year," he fondly thought of a return to the caresses of those he had aided in winning its high rewards. Nor could he be without hesitations as to his presence again, at the seat of Government. He could not forget,

and others may not have forgotten, the marked circumstances of his sudden retreat from Philadelphia in seventy-six, and his hovering around Richmond in eighty-one. Thus he required all the reassurances of Madison, and the tempting future he displayed, to brace him to meet the public eye at home, after his recent conduct abroad. Jefferson's acceptance was communicated to Washington by Madison, to whom the President wrote, "I am glad, he resolved to accept the appointment of Secretary of State, but sorry that it was so repugnant to his inclinations."*

Jefferson, meanwhile, had not spared any means to secure the favor of Washington. To his correspondents in Europe, and to the most confidential in America, he disapproved the re-eligibility of the President. Washington would be in his way. "Reason and experience tell us," he wrote, "that the first Magistrate will always be re-elected, if he may be re-elected. He is then an officer for life."† "This defect will probably not be cured during the life of General Washington."‡ But, to Colonel Humphreys, the former aid-de-camp of the Commander-in-Chief, and, *at that time* with him, he wrote, *after* Washington's election, in these accommodating terms: "Should the majority" (of the States) "change their opinion and become sensible that this trait in their Constitution is wrong, *I would wish it to remain uncorrected*, as long as we can avail ourselves of the services of our great leader, whose talents, and whose weight of character, I consider, as peculiarly necessary to get the Government, so under way, as that it may afterwards be carried on by subordinate characters."

* Washington to Madison. "Sunday morning,"—without date. M. S. S.

† To Madison. Jefferson's Works, ii. 274.

‡ To Carmichael, ibid. 355. To Short, 366. Both residing in Europe.

After all his hesitations, Jefferson appeared in Philadelphia on the twenty-first of March.

A brief outline of his fruitless mission to France has been given, but a few additional gleanings from his correspondence during that period, are not undeserving attention at this moment of his life.

His reception, at a Court to whose political views in the United States he had ever been subservient, was, of course, most flattering. The Ministry saw in him one who would be not less pliable than Franklin; and Jefferson took Franklin, in part, as his model. Franklin was reticent—Jefferson would not contradict. Franklin was a man of pence and thrift; and, for a time, assumed a privacy, which would give something oracular to his opinions. But the motive to such seclusion had ceased. Jefferson was both minute and lavish. Fond of the table and of society, he opened wide his doors; and therein were beheld, crowds of young officers who had served in America, of whom, many, dressed in linsey woolsey, affected American manners; all welcoming him, as an exemplar of their new opinions, to the gay metropolis.

Franklin was a Savant—Jefferson would be thought one; and, soon after opening his mission, he circulated privately in manuscript, a small volume on America—which, when printed, was not sought, because it could easily be had; and, amid the teeming press of France, soon fell into oblivion.* But it met, in many points, the notions of the day. The graves of Voltaire, of Rousseau, of Condillac, of Diderot—the great lights of infidel darkness, were still green. To them had succeeded Mesmer; Condorcet, skilled in the exact sciences; the impostor Cagliostro, and "Cabanis, the intimate of Jefferson," who "established a theory of Material Spiritualism, which

* Jefferson's Notes on Virginia.

attributes much to the Spirit, but to the Spirit deprived of the religious sentiment and of faith." *

These men had risen to importance; and, for a time, ruled opinion by the power of the Press. Franklin was a printer, and made this power felt by using it to develop, to enlighten, and to instruct mankind. Jefferson, though beholding around him its seething fires, regarded it as an instrument of ambition, and wrote: "The basis of our Governments being the opinion of the people, the very first object should be to keep that right; and, were it left to me to decide, whether we should have a Government without newspapers, or newspapers without a Government, I should not hesitate to prefer the latter." †

The French officers had become politicians. The Savans were politicians; and the author of the Declaration of Independence could not fail, in their eyes, to be a man of mark. Looking to the United States and their republicanism, as the goal to be reached, Jefferson became an oracle. His vanity was flattered, and he plunged with delight into the vortex of upheaving France.

Franklin is alleged ‡ to have been a member of the secret societies, of which Voltaire was the guide, and Chartres the Grand Master; but he is not known ever to have violated his official duties. Jefferson, if not a member of any of them, became a conspirator against the Government to which he was accredited, and against the King § who had been the great benefactor of his country.

The States General met on the fifth of May, eighty-nine. He counselled the adoption by France of the Eng-

* Capef. iii. 303: "Cabanis, l'intime de Turgot, d'Holbach, de Franklin, et de *Jefferson*."

† Jefferson, ii. 85.

‡ Capef. vii. 123, "qui comptait les frères, La Lande—Franklin.

§ Jefferson's Works, ii. 164—249. "The King goes for nothing. He hunts

lish Constitution, as her model; recommended to Lafayette—a member—the division of her political orders into "Nobles and Commons"—and failing in this, deliberately advised him, on the sixth of May, to disobey his instructions, and to co-operate with the Tiers Etat. "It is only a single difficulty, which a single effort surmounts. Your instructions can never embarrass you, a second time." * This advice he disclosed to Washington. Lafayette, of course, disregarded it.

Jefferson, it has been stated, was in correspondence with Paine. "Such a correspondence," he wrote him, "you know, cannot pass through the post, nor even by the couriers of Ambassadors." †

Again he writes him, thirteen days after his recent advice to Lafayette: "Conciliation," between the opposing parties, "is impossible;" ‡ and, in the month of July, from his house, the scene of the most confidential meetings of the popular leaders, informs him: "The leaders of the Assembly surpass in patriotism; they are resolved to set fire to the four corners of France, rather than not reduce their principles to practice, to the last iota. Do not fear the army, WE have gained them." §

A few days after, as Jefferson states, ‖ he received

one half the day, is *drunk* the other, and signs whatever he is bid."—Oct. 8, 1787. April 6, 1790. He pronounces him—"A Prince—the model of Royal Excellence," and presents him the homage of his respectful adieus.—Jefferson's Works, iii. 49.

* Ibid., ii. 456, May 6.

† Ibid., ii. 415, Jefferson to Thomas Paine.

‡ Ibid., ii. 476.

§ Bissell's Life of Burke, ii. 286, gives a letter of Paine. In it, dated July 11, 1789, he copies this note, just received by him from Jefferson, "at whose house," he wrote, "the Republican chiefs held their most confidential meetings."

‖ Jefferson's Works, i. 83.—July 20.

a letter from the Chairman of a Committee appointed for a reduction of a *projet* of a Constitution, requesting him to attend to assist at their deliberations; "but I *excused* myself, on the *obvious* considerations, that my mission was to the King, as CHIEF Magistrate of the Nation; that my duties were *limited to the concerns of my own country*, and forbade me to *intermeddle with the internal transactions* of that in which I had been received, under a specific character only." A short time elapsed. A meeting then took place at his own house, of several of the leaders, when discussions were had of great length, to which, he says, he was "*a silent witness.*" "The result was," he states, "that the King should have a suspensive veto on the laws; that the Legislature should be composed of a single body only; and that to be chosen by the people"—an overthrow of the Government. Alarmed at his involvement, fearing discovery—"duties of exculpation," he relates, "were now incumbent on me—I waited on Count Montmorin, the next morning; and explained to him, with truth and candor, how it happened that my house had been made the scene of conferences of *such a character.*" He represents the Minister, who informed him, that he knew what had passed, as "wishing" his further agency in these conferences. But, "I told him, I knew too well the duties I owed to the King, to the Nation, and to my own country, to take *any part* in councils concerning their internal Government; and that I should *persevere* with *care* in the character of a neutral and passive spectator, with wishes, only, and very sincere ones, that those measures might prevail, which would be for the greatest good of the nation."* Such is the statement he gives, after his advice to Lafayette, and his note to Paine. Thus is he self-convicted and self-condemned.

* Jefferson's Works, i. 84, Memoir by himself.

This was his last act of complicity with the internal Government of France. Detected in his intrigues, he was alarmed. Blood had been shed. He had seen the tide of the Insurrection, which he had aided in exciting, sweeping past his windows in loud acclaim. He had heard volleys of the French guards he had aided in debauching, firing upon their comrades, clothed in the uniform of the King.* Trembling, lest the vengeance of the Crown or of the popular leaders, both of which he had courted and betrayed,† might require his life as a forfeit, he hastened from Paris to Havre, where, no friendly sail appearing, he crossed to England and thence to the United States.

The calamities of unhappy France, now swelling to the full, were less the result of the imperfections of her institutions, than of her wide-spread infidelity, and of her general demoralization.

The life of the Infidel was in accordance with his creed. Jefferson arrived in Paris, a year after the intellectual sceptre had passed from the deceased D'Alembert, to the Marquis of Condorcet. This cold, dry man, "classed among fools those who had the misfortune to believe in a revealed religion.‡ He who called himself an Atheist was at once a great man—to deny God, was the sublime of philosophy." Under his sway, "no one could attain to a scientific position, if he was not a little of an Atheist, or at least, an Anti-Christian."

* Capefigue, iv. 160.

† Jefferson's Works, i. 86.—"Possessing the confidence and intimacy of the leading Patriots, and, more than all, of the Marquis of Lafayette, their head and Atlas, *who had no secrets from me*, I learned with correctness the views and proceedings of that party; while my intercourse with the diplomatic missionaries of Europe at Paris, *all of them with the Court*, and eager in prying into all its councils and proceedings, gave me, *a knowledge of these also.*"

‡ Capefigue, ii. 82.

Jefferson is seen to have affected a reputation for science. Condorcet and Cabanis were men to his taste. His early opinions were no barrier to his success. In his Notes on Virginia, while he admitted there was a God, he declared, "it does me no injury for my neighbor to say there are twenty Gods or one God." *

"Voltaire's description of France," he wrote, "is a true picture of that country to which, they say, we shall pass hereafter; and where we are to see God and his angels in splendor, and crowds of the damned trampled under their feet." † Next, he extols the supremacy of Reason; and, writing to a *young* relation, he enjoins: "Fix reason firmly in her seat, and call to her tribunal every fact, every opinion. Question with boldness, even the existence of a God; because, *if there be one*, he must more approve the homage of reason, than that of blindfold fear. * * If you find reason to believe there is a God—a consciousness that you are acting under his eye, and that he approves you, will be a vast additional incitement; if that there be a future state, the hope of a happy existence in that, increases the appetite to deserve it. If, that Jesus was *also a God*, you will be comforted by a belief of his aid and love."—"Your own reason is the only oracle given you by Heaven; and you are answerable, not for the rightness, but the uprightness of the decision." ‡ His morals were, also, in accordance with his creed. His thirty years of prolonged life bestowed by the Almighty, in mercy, produced no change in him. Among his latest productions, he avows a Syllabus, originally written to Rush—imputes to the Saviour of the world, "evasions, sophisms—misconstructions and misapplications of scraps of the

* Notes on Virginia, 169,–1781.

† Jefferson's Works, i, 327, Paris, Sept. 30, 1785.

‡ Ibid. ii. 217, etc., Paris, Aug. 10, 1787.

prophets;" and declares, "I am a Materialist—Jesus takes the side of Spiritualism. He preaches the efficacy of repentance towards forgiveness of sin; I require a counterpoise of good works to redeem it." * "A Material Deist."—"I am satisfied, and sufficiently occupied with the things which are, without tormenting or troubling myself about those which may indeed be, but of which I have no evidence." †

Such was the man who now took his part in the highest councils of a Christian people.

The state of the questions before Congress, at the time of Jefferson's arrival at the seat of Government, has been seen.

Galled by his defeat in the House, on the question of discrimination between the original holders and the assignees of the Domestic debt, Madison felt, that it would be a great point to gain Washington's approval to his course.

The mode adopted was well selected. His sympathy with his fellow-soldiers of the Revolution was strong. An appeal to this sympathy, if colorable grounds could be taken, it was believed, must succeed.

A petition was circulated and signed by a number of the officers and privates of the Virginia and North Carolina lines of the late Army, praying payment of the arrears of pay due to them, and which they had assigned.

A few days after, joint resolutions passed in Congress, directing the President to transmit to each State, lists of the persons composing these lines, annexing the particular sums due to each; and ordering the Secretary of the

* Jefferson's Works, iv. 321, 325–332.

† Randall, i. 493, asserts, that he "never, at any period of his life, made himself an aggressive assailant of Christianity; that he never, in a solitary instance, sought, directly or indirectly, to proselyte a human being to unchristian views, or to shake his conviction in Christian ones."

Treasury to pay the respective sums within each State; and, in cases where payment had not been made to the original claimant, in person, or to his representative, that it should be made to such claimant, or to such person only, as shall produce a power of attorney, duly attested, to receive such specified sum.

Hamilton, aware of the effect of these resolutions, and regarding the objections to them, as very serious and weighty, involving principles of high importance, submitted them to the consideration of the President.

He stated, that by the laws of most, if not of all the States, such claims were, in their nature, assignable for a valuable consideration; and, that the assignor might constitute the assignee his agent to receive the amount; that the import of every such assignment was a contract, that the assignee shall receive the sum assigned to his use; that any instrument competent to convey, with clearness and precision, the sense of the parties, was sufficient; that the practice of the Treasury and of the Public officers in other Departments, had uniformly corresponded with this rule of law; and, that a regulation having a retrospective effect, and prescribing new requisites by which the admission of claims was to be guided, was an infraction of private rights, and a contravention of public faith; and had a tendency unfriendly to public credit, and to the security of property. That such were the requisites now prescribed. They had not attended the previous assignments, and would defeat them.

That the assignee had no method of compelling the assignor to perfect the transaction, according to the new formality, by a new instrument; and, however equitable his pretensions, whether he had any remedy to recover the money he may have paid to the assignor, was very questionable.

The assignment may have been for a precarious or desperate debt; or, it may have been a composition between an insolvent debtor and his creditor; or the assignor may be absent.

"To vary the risks of parties; to supersede the contracts between them; to turn over a creditor, without his consent, from *one debtor* to *another;* to take away a right to a *specific thing*, leaving only the chance of a remedy for retribution, are not less positive violations of property than a direct confiscation."—"Fraud," the ground of these resolutions, "is a good objection to any contract; but the power of ascertaining it, is the peculiar province of the judiciary department. The principles of good government place it there. 'Tis there only, such an investigation of the fact can be had as ought to precede a decision. 'Tis there only the parties can be heard, and the evidence on both sides produced, without which, *surmise* must be substituted to *proof*, and *conjecture* to *fact.* The Legislature must either erect itself into a Court of Justice, or proceed upon vague suggestions, loose reports, or upon partial and problematical testimony, to condemn in the gross and in the dark, the fairest and most unexceptiona ble claims, as well as those which may happen to be fraudulent and exceptionable. The first would be a usurpation of the judiciary authority. The last is at variance with the rules of property, the dictates of equity, and the maxims of good government. When a departure from these general rules is advocated, it is usually alleged, there are exceptions, in which the public good demands and justifies interpretations of the Legislature. This is not to be denied, but the nature of these cases should be carefully distinguished.

"Every such interposition is an overleaping of the ordinary and regular bounds of Legislative discretion; and

is, in the nature of a resort to first principles. Some urgent public necessity, some impending National calamity, something that threatens direct and general mischief to society, for which there is no adequate redress in the established course of things, can alone be a sufficient cause for the employment of so extraordinary a remedy.

"If partial inconveniences and hardships occasion Legislative interferences in private contracts, the intercourses of business become uncertain, the security of property is lessened, the confidence in Government destroyed, or weakened.

"The Constitution interdicts the States individually from passing any law impairing the obligation of contracts. To the more enlightened part of the community, this was not the least of its recommendations. The Legislative interferences with private contracts were extensively felt, and seriously lamented. Such a precedent will alarm the same class, and diminish the respect of the States for the interdiction alluded to. The example of the National Government will have far more influence than the precepts of the National Constitution.

"This is the case of a meritorious class of men; but inconsiderable in number, and the amount less than fifty thousand dollars, not exceeding twenty-five dollars each man. This seems a very inadequate cause for breaking in upon the great principles that constitute the foundations of property. Relief can be had in the Courts of Justice." And a plan was suggested to him, by which the Attorney General, representing the claimants, could obtain justice out of the fund.

This argument was followed by a strong expression of regret at this call for the President's interposition; yet the principles which appeared to him to have been invaded, Hamilton thought, of such fundamental consequence to

the stability, character, and success of the Government, and so immediately interesting to the department intrusted to his care, that he felt himself irresistibly impelled by a sense of duty, as well to the Chief Magistrate as to the community, to make this full communication.

"An inflexible adherence to these principles may have an air of rigor. The general rules of property, and all those which form the links of society, frequently involve particular hardships and injuries: yet the public order and general happiness require a steady conformity to them."

As to the delicacy of the President's opposition, he remarked, "that in a case where so few were concerned, it would be less likely to have disagreeable consequences than where it should affect many; and the prevention of an ill precedent might prove a decisive obstacle to other cases of greater extent and magnitude, and of a more critical tendency. That the momentary dissatisfaction would be removed by the plan he had suggested, and that the majority in the Senate was only of two votes."

That he felt an unreserved confidence in the justice and magnanimity of the President, who would "impute this representation to an earnest and anxious conviction of the truth and importance of the principles supported by the Secretary, and of the inauspicious tendency of the measure, to which he objects; co-operating with a pure and ardent zeal for the public good, and for the honor and prosperity of the administration of the Chief Magistrate."

To control the action of the House of Representatives; to exhibit himself at once as dominant in the Councils of the President; to gain a large popularity with the late army; and to recover for Madison the ground he had lost, were motives too powerful for Jefferson to resist.

His Cabinet opinion being asked, he wrote to Washington. "By the Common Law of England (adopted in Virginia)," he stated, "the conveyance of a right to a debt, whereof the party is not in possession, is not only void, but severely punishable under the laws of maintenance and champerty. The Law Merchant allows the assignment of a bill of exchange; but this is an exception to the general rule.

"The other exceptions were Notes and Bonds. In all other cases assignments were void; and, the debts of these soldiers not having been put in either of these forms, the assignments of them were void. The Resolutions of Congress are not retrospective. They only direct their treasurer not to give validity to an assignment, which it had not before, until he, in whom the legal property is, shall order it in such a form as to show he is apprised of the sum he is to part with. If he acquiesce in the fraud, he is only to execute the power. Actual payment in this case, is an important act. If made to the assignee, it would put the burthen of proof and process on the original owner. If made to that owner, it puts it on the assignee, who must then come forward, and show that the transaction had been that of an honest man. The Resolutions merit approbation." Washington was not a lawyer. Jefferson had been a codifier of the laws of Virginia.

The President could not imagine he would mislead him on a question involving a grave official duty. Yet, so it was. In the first important Cabinet opinion given by him, he deliberately misstated the law. That the ancient doctrine of strict law forbade the assignment of a chose in action, is true; but this strictness had long since given place to a sense of justice. Indeed, "Courts of Equity from the earliest times, thought the doctrine too absurd

for them to adopt; and, therefore, always acted in direct contradiction to it." *

Nor did the courts of law choose to be hampered by so rigid a rule. An exception was first made in favor of the Crown. Even during the tyranny of Henry the Eighth, a more liberal view was taken. A similar opinion prevailed in the reign of Charles the Second; † and, four years before the Declaration of Independence, the right of the Assignee was confirmed by all the judges of England. ‡ Yet, to attain his object, the Secretary of State thus palmed upon the President, as the existing law, an obsolete, arbitrary, and iniquitous technicality.

* T. R. iv. 340. Dyer, 306.

† T. Jones, i. 222. ‡ Black. ii. 820,—1772.

CHAPTER LXI.

The length of the debate on the proposed discrimination of duties caused a postponement of the discussion on the Finances, until the nineteenth of May, when the bill making provision for the Debt was again considered.

Early in this renewed debate, and as it would seem, with a view to defeat the whole Funding system, a motion was made to expunge the section which contained a specific provision for the current public service.

This motion was strongly opposed on the ground, that it struck at the principle of the bill, which contemplated a sacred appropriation for the Public creditors, any violation of which would defeat the whole object in view. It was rejected by a large vote. The clause authorizing a loan to be made by the Secretary of the Treasury, was so modified, on the motion of Madison, as to confide that trust to the President; and a proposition for such a modification of this clause as that the power to borrow, should devolve upon the President, agreeably to the Constitution, and not by Law, was rejected. He was also, by an amendment to the bill, to direct the application of the loan to the several objects, for which it was to be effected. A clause was inserted to fund the continental bills of credit, at the rate of one hundred dollars for one specie dollar. The exchangeable rate per acre of the Western Land was

raised from twenty to thirty cents, and a proposition, to fund the interest accruing to non-subscribers, was negatived.

On reading the twelfth section of the bill, which provided for the appointment of Commissioners of Loans in each State—a motion was made by Gerry, to insert a clause for the Assumption of the State Debts. In support of this amendment, he alleged, as one ground, that the observations of Madison had not been made until the moment previous to their adjournment, and therefore could not be replied to; that it appeared to several members of the House, that his arguments were unfounded, and required not only investigation, but contradiction. Since which time, documents had been received to show the relative exertions of the several States from which the arguments for the assumption would derive new force, if any additional force was wanting.

A very animated debate arose upon this motion. Its opponents insisted, that the Funding bill should be completed without a provision for the State Debts. Its friends objected, that if that bill was completed without such provision, all hopes of the Assumption would be at an end.

It was considered by the Secretary of the Treasury, as an essential part of his plan. Some of the States would be wholly unable to discharge their debts, and others could not do it without burthening the people with very oppressive Taxes.

The opponents of the Assumption had been repeatedly called upon to give their views upon this subject, and to indicate the funds they intended to appropriate to this object. But they had been called upon in vain. They did not disclose what part of the funds appropriated by the States they meant to invade. To separate these subjects, would be to form two Funding systems, and to render

that intricate and perplexed, which might be simple and intelligible.

Fitzsimmons objected to connecting the assumption with the present bill, and it was resolved, that the committee should rise and report progress. The committee rose, but before the Chairman could make his Report, it was moved, in the House, that he should report particularly, how far the committee had proceeded in the bill; and that it should be discharged from any further consideration of it. This motion was vehemently urged, and as warmly opposed; Boudinot, strenuously enlarging on the impropriety of precluding the advocates of the assumption from replying to the observations of Madison, and of preventing a free and full discussion. Sedgwick, also alluding to them, remarked, that, "the gentleman from Virginia, at the end of eight weeks debate on this subject, during which time, he had remained silent, had come forward in a speech which had been given to the public, and he was informed, with great accuracy. That by means of discharging, immediately afterwards, the committee from the further consideration of this subject, no answer had been given to it—that this speech, which he feared was designed to make an unfair and undue impression on the public mind, was a performance, in his opinion, composed of unfounded facts—monstrous premises, and inconclusive deductions. It would well become the magnanimity of the gentleman, and the partiality of his friends, to permit a full examination of his argument, that it might justly be determined, how far it deserved the character he imputed to it."

This earnest appeal was not to be resisted; and the motion to discharge the committee from the further consideration of the assumption, was withdrawn.

The discussion of Gerry's proposed amendment to the

Twelfth Section of the bill was resumed, the following day, when Ames, Boudinot, and Sherman replied to Madison at much length.

A motion was then made, that the committee should rise, to which an amendment was offered, that the Chairman report, that they had gone through the discussion of the *twelve* first Sections of the Funding bill, and that they be discharged from its further consideration. After a warm debate upon this amendment, it was carried in the affirmative; but the question on the discharge of the committee was prevented being taken in the House, by a motion for adjournment.

The succeeding day, the House took up the report of the committee, and the motion to discharge the committee from its further consideration passed. The amendments proposed to it were then agreed to. An unsuccessful effort was made to strike out the provision for the Indents; and a paragraph was added, which gave to the non-subscribing creditors, interest to the end of the year seventeen hundred and ninety.

The Bill, thus amended, was ordered to a third reading, on the twenty-first of May.

A series of resolutions had been introduced by Boudinot, providing for the assumption of the State Debts, similar, in some respects, to the rejected proposition of Gerry. These were laid on the table, and a resolution was offered by Fitzsimmons, who, it will be recollected, had objected to the connection of the assumption with the Funding bill, that Congress will meet and hold their next session at PHILADELPHIA!

An attempt was again made to induce the consideration of the resolutions for the assumption, when, after a motion to postpone this subject beyond the session, the seventh of June was appointed for its consideration.

On the next day of the Legislative proceedings, a resolution was brought forward in the House, for the establishment of the future SEAT of GOVERNMENT. After much argument upon the propriety of proceeding in the Funding bill, which was the special order of the day, it was resolved, by a majority of five votes, to take up the question of RESIDENCE.

This subject had been considered during the previous Session. On the fifteenth of May, eighty-nine, Virginia presented to Congress, an offer to cede a district, ten miles square, situate anywhere Congress might select, *within* that State, as the seat of the General Government. A similar offer was made, the next day, by Maryland. Resolutions passed, after much controversy, to establish the seat of Government on the banks of the Susquehanna.

After various efforts to select New York and Baltimore, a resolution prevailed in favor of Philadelphia. This question, which had intermingled itself with others, being thus disposed of, the Funding bill was, on the second of June, completed and passed.

Some members of the party, who had opposed the assumption, having committed themselves to provide for the settlement of the accounts between the United States, and the individual States, the bill which had been framed for this object, was brought under consideration, and progress was made in it. Upon being reported to the House, Madison, though he had previously urged a liquidation of the accounts, moved that the Committee should be *discharged from any further consideration of it.* It was, nevertheless, acted upon; was afterwards recommitted to a select committee; and, with several amendments, ultimately became a law.

The bill making provision for the Debt, was immedi-

ately reported to the Senate. On its second reading, notice was given, by Ellsworth, of his intention to bring in an act, making provision by the United States, for the debts of the respective States.

A bill, establishing the permanent seat of Government, the action upon which was intimately connected with the Funding bill, was, in the mean time, postponed; and the vote of the House, that the next Session of Congress should be at Philadelphia, was not concurred in.

On the fourteenth of June, a resolution was offered by Ellsworth, as the basis of the bill of which he had given notice, that provision should be made, at the next Session of Congress, for loaning to the United States a sum not to exceed twenty-two millions of dollars, in the certificates issued by the States for services and supplies towards the prosecution of the late war; the certificates to stand charged to the States, until a liquidation of their accounts by the United States should be completed.

This resolution was referred to a Committee; and the Senate, having proceeded in the consideration of the bill, making provision for the Debt, passed a resolution to discharge the alternatives proposed in the original bill, and to fund the Domestic debt at an interest of four per cent., redeemable at the annual rate of six per cent. of the capital; *Ellsworth contending, that the United States would be unable to pay a larger rate of Interest*, a matter on which there was much diversity of opinion.

A decision upon the question of Residence was, during this period, pressed in the House of Representatives; and, after various votes, a resolution passed that Baltimore should be the seat of the next Congress. This resolution was also rejected by the Senate; and the bill pro-

viding a permanent seat of Government was discussed, it being deemed highly important to dispose finally of this much agitated question.

Different places were suggested, and propositions offered, upon which the division was so close, that the decision was made by the casting vote of the Vice President; but it being ascertained that, in a certain contingency,* there was a majority in favor of the assumption in the other House, a bill finally passed the Senate, providing, that the seat of Government should remain at Philadelphia until the year eighteen hundred; and that it should be permanently established, after that time, near the Potomac—a decision, in which regard to the personal wishes of Washington had weight.

The House of Representatives having passed the Funding bill, excluding a provision for the State debts, took up a bill, which had been reported, of which the object was, an increase of the Revenue. This bill contained a section which provided for an excise on spirits, distilled within the United States. This section, Goodhue moved to expunge, for the reason that, if the State debts were not assumed, this resource ought to be left to the States—but the motion was negatived. Having passed in Committee, it was reported to the House, who were strongly urged to defer acting upon it, until the question of Assumption, then before the Senate, had been disposed of. The House proceeded. In its progress, it was moved to expunge the clause which laid a duty on Stills. This clause was deferred, but was finally adopted, and the

* Monroe to Madison, Richmond, July 2, 1790: "The assumption will be disliked here, from what I can learn, under any shape it can assume." Same to same, July 23, 1790; Charlotte: "I believe, however, a satisfactory adjustment of the other business, (the Residence,) would make this more palatable here."

bill, with a few amendments, was brought to its third reading.

A serious embarrassment now arose in the minds of some of the opponents of the Assumption. If the passage of this Revenue bill should be delayed, it was apprehended, that the Assumption would be introduced into the Funding bill. On the other hand, there was an unwillingness to incur the odium of voting for an excise. To avoid this dilemma, Parker of Virginia moved a reference to the Secretary of the Treasury, with instructions to report a system of ways and means, exclusive of an excise. This motion was rejected. It was then proposed by Gerry, to strike out the two sections of the bill which provided for an Excise, on the ground, that that resource ought to be reserved for the State Debts. This proposal was negatived.

The question on engrossing this bill, being next taken, it was rejected. The advocates for the Assumption voted with the opponents of the Excise, resolved to manifest to those who were only solicitous to provide for the General debt, their determination to secure a provision for the State debts. Nor was this vote without its intended effect. It was remarked, that, on this final question, Madison, disregarding his recent denunciation of it, voted for an Excise, in preference to a provision for the State debts.

This bill having failed, a Committee* was appointed to report ways and means for paying the interest on the debt. These were, an addition of one-third to the impost; increased specific duties on various enumerated articles, and an additional duty of ten. per cent. on imposts in Foreign vessels, discriminating the discount on those in

* The Committee were Fitzsimmons, Madison, Sedgwick, Sherman, and Tucker.

American vessels; the last proposition being in conformity to a previous suggestion of Hamilton.

Several amendments were made to the bill, founded on this report. The lowest ad valorem rate in this, as in the former act, was five per cent.; but the number of articles, to which it applied, was narrowed. Clauses were inserted for the express object of protecting certain articles of American manufacture; the number of free articles was extended, and a most important provision, which had been urged by Fitzsimmons in committee, was adopted. This provision repealed the limitation introduced into the Revenue act, on the suggestion of Madison, which provided, that the duties should be collected only until the year seventeen hundred and ninety-six; and continued the new impost, until the debts and purposes to meet which the duties were laid, should be satisfied, leaving to Congress the power to substitute other duties of equal value. Thus amended, this bill, under the title of "An Act further to provide for the debts of the United States," passed by a large majority.*

On the same day, upon which the House agreed to the report of ways and means, a message was received from the Senate, announcing the passage of the RESIDENCE bill.

A warm debate arose upon this bill. In this discussion, the members from Virginia were the most conspicuous advocates of it. Those of Massachusetts, its most

* These extra charges on foreign commerce (6 cents on U. S. vessels, 30 on vessels built by foreigners in the U. S., and on all other vessels 50 cents per ton), combined with discriminating duties of ten per cent. on goods imported in *foreign* vessels, imposed by the Act of August 10, 1790, drove away the foreign tonnage, which in 1790, was as 41·4 to 100, and in 1810, was as 3·4 to 100.

earnest opponents. It finally passed as received from the Senate.

That body now directed its attention to the bill making a provision for the debt. After frequent discussion, they resolved that, upon mature consideration, they were of opinion, that the principal of the domestic debt should be funded agreeably to the third alternative in Hamilton's Report; and the interest, which may be due including Indents, be funded at the rate of three per cent. per annum; and that, whatever sum the Legislature may think proper to assume of the State debts, be funded at the proportion of two thirds thereof, agreeably to the third alternative in that Report; and the other third, at *three* per cent. per annum; that resolutions for the Assumption (to the amount of twenty-one million five hundred thousand dollars) in specified sums, for each State, be added to the Funding bill, and that the whole be made ONE SYSTEM.

After much discussion, an amended bill for funding the debt passed the Senate.*

The provision for the Assumption of the State debts, was warmly contested by Jackson, in the House of Representatives; but the first vote in its favor was the same numerically with that on the Residence bill, which, on the final question, was increased by two votes.

The REPORT ON PUBLIC CREDIT, it has been seen, proposed that the net product of the Post Office, to an amount not exceeding a million of dollars, should be vested in Commissioners, in trust, to be applied to the discharge of the debt, either by purchases of stock in the market, or by payments, on account of the principal. It also recommended a loan of twelve millions of dollars—to be

* The Legislature of Massachusetts had on the 28th of June passed an earnest resolution, in favor of the Assumption.

applied first to the payment of the interest and instalments of the Foreign debt due at the end of the current year—then to the payment of any deficiency which might happen in the product of the funds provided for paying the interest on the Domestic debt—next, to effect a change in the form of such part of the Foreign debt as bore interest at *five* per cent.—and, having attained these objects, the residue to be applied to the purchase of the public debt at the price it bore in the market, while below its true value, to be effected through the medium of a National bank.

The House, in the bill making provision for the debt, had not felt the force of this last suggestion; and had confined the application of the loan of twelve millions of dollars, solely to the discharge of the Foreign debt.

Hamilton, seeing the great importance of raising the credit of the nation, by increasing the value of the debt, and thus augmenting the capital of the country, sought to attain the object in a different mode. In a letter and report, addressed to the House of Representatives on the seventh of August, the day following that on which the "Act making further provision for the payment of the Debt" was passed, having stated the necessity of several appropriations being made for claims of a nature distinguishable from the mass of the public debt, he urged the importance of applying a part of the twelve million loan, to the discharge of the debt due to foreign officers. Among other cogent inducements to this measure, was the circumstance, that this debt bore an interest of *six per cent.*, payable in *Europe*. He next recommended, a reservation and appropriation of a sum sufficient to meet depending claims, which might be established against the Treasury, in the course of the year.

These objects being provided for, he represented, that there would probably be a surplus of a million of dollars. This sum, he advised should be applied to the purchases of the Public debt in the market; and submitted it, as a matter worthy of consideration, whether authority ought to be given to extend the purchases beyond the limit of that surplus upon a credit, not exceeding a certain specified and short term, relying, for this purpose, on the aid of loans.

Two bills framed by the Secretary of the Treasury, were introduced into the House, to carry into effect these suggestions, and were passed; one making appropriations for the several objects indicated by him in his Report; the other entitled, "An Act making provision for the REDUCTION of the DEBT"—thereby establishing an efficient SINKING FUND.

Some misconception renders it proper to exhibit in more detail the results of the legislation, arising out of the "Report on the Public Credit."

Three laws were enacted—"one making provision for the Debt," commonly called the Funding act, and the two just mentioned. The FUNDING ACT, after the reservation of a specified yearly sum for the support of the Government and their common defence, appropriated as much of the proceeds as should be necessary to the payment of the interest on all existing or future foreign loans, contracted for discharging the arrears of interest, and the principal of antecedent foreign loans—to continue so appropriated, till the debt created by these loans was paid.

To discharge the arrears of interest upon, and the instalments of the principal of the foreign debt, due and to grow due, it empowered the President, to borrow a sum not exceeding twelve millions of dollars; and, if to be effected on advantageous terms, to pay off the whole of

that debt, and to make other contracts in relation to it, on condition, they should not preclude the reimbursement of the sums borrowed, within fifteen years from the time they were borrowed.

To adapt the form of the Domestic debt to the circumstances of the United States, as far as it could be done—"*consistently with good faith and the rights of the creditors,*" which it truly declared, "*could only be done by a voluntary loan on their part*"—it proposed a loan to the United States, the subscriptions to which were to be paid in certain enumerated evidences of the public debt. The terms of these subscriptions were: that the arrears of interest on these evidences should be computed to the end of the year seventeen hundred and ninety; that for the sum of the *principal* of the debt subscribed and paid in, an assignable certificate be given for two thirds of such principal, bearing a quarter-yearly interest of six per cent., from the first of January, seventeen hundred and ninety-one, subject to an annual redemption of eight per cent., on account of the principal and interest of the original sum subscribed; and that another certificate should be issued for a sum equal to the remaining third of that sum, which, after the year eighteen hundred, should bear a like interest, payable in like manner, and subject to a like rate of redemption—such redemption to be optional with the United States—that, for any sum subscribed and paid in the *interest* of the debt, a certificate should be given for a sum equal to the sum subscribed, bearing an interest of *three per cent.*, payable quarter-yearly, to commence at the end of the year, redeemable at pleasure, by payment of the principal.

For the regular payment of the interest on these three kinds of stock—the sixes, the deferred sixes, and the three per cents.—it pledged the proceeds of the public

revenues which should remain, after supplying the limited amount reserved for the civil list, and the common defence, and after discharging the interest on the foreign loans, previously mentioned.

As to the non-subscribing creditors, it provided, that their rights and contracts should remain unimpaired; and that they should receive an interest on their debts during the year, while the loan was pending, equal to the interest payable to the subscribing creditors.

To carry into effect the ASSUMPTION of the State debts, it authorized a loan of twenty-one million five hundred thousand dollars, payable indiscriminately in the principal and interest of the evidences of those debts, according to fixed quotas, exclusive of certain certificates, issued in the State of North Carolina.

The terms of this loan were, that a certificate, bearing an interest of six per cent., to commence at the beginning of the year seventeen hundred and ninety-one, should be given for four ninths of the sum subscribed; another certificate for two ninths of that sum, bearing an interest of six per cent., after the year eighteen hundred; and a third Certificate for three ninths of that sum, bearing an interest of three per cent., commencing also on the first of January, seventeen hundred and ninety-one. These certificates were subject to a like redemption with the subscriptions to the first-mentioned loan.

For the payment of the interest on this loan, the surplus of the revenues, remaining after discharging the appropriations previously mentioned, were pledged, until the final redemption of the capital stock.

To secure the due application of these revenues, a distinct account from that of the proceeds of any other revenues, was to be kept; and the faith of the United States was pledged to make up any deficiencies.

Finally, the proceeds of the sale of the Western domain were pledged for the discharge of all the debts then owed by the United States, or which, by that act, they should owe.

From this statement of the legislation with respect to funding the debt, it cannot escape observation, that the necessity of concessions to induce the grant of any adequate provision for it, compelled the assent of Hamilton to various modifications of his plan, which have given to the system adopted, a perplexed and complicated appearance.

The original Funding bill was drawn by him; and when reported to the House of Representatives, was couched in plain, concise, and intelligible terms. It was systematic, and embraced every arrangement which could tend to the support of the Public credit, as far as related to the Continental debt. But, when the Assumption was grafted upon it, and various new modifications made, without the gratification of which, the loss of the whole bill was threatened; the changes which took place, made it, though retaining some of the features of the original draft, a new bill.*

There was also an essential difference between the principles of the Report, and those of the Funding act.

This Act offered no alternatives to the public creditors, but confined them to the third proposition of the Report, modified, so as to increase the deferred part of the Debt to one-third of the whole amount.

* This bill was altogether the work of merchants, who clothed it in their own language. On its passage, the following paragraph appeared in the Gazette of the United States, August 4, 1790: "Lost, between Popularity street and the narrow lane of Jealousy, the Report of the Secretary of the Treasury. N. B.—The defaced, mutilated book, sent last week, supposed to be advertised, is *not* the work in question."

No provision was made by it for the loan which he had proposed, payable, one-half in specie, and the other half in debt, at an interest of five per cent.

The Secretary's plan, proceeding on the fact, that, as the arrears of interest were due, they were immediately payable; and, therefore, were entitled to an equal provision with the principal of the debt, consolidated the arrears of interest with the principal; the whole sum bearing an interest of six per cent., irredeemable, except in small amounts.

The Funding act distinguished between the principal and the arrears of interest, providing for the former a six per cent. stock; and for the arrears of interest a three per cent. stock; redeemable at pleasure—an immense difference, as these arrears of interest constituted one-third of the aggregate of the debt proper.

The provision for the assumed Debt was still more disadvantageous to the creditor. The Report of Hamilton proposed a future loan for it, precisely on the same terms with that of the proper debt of the United States. The "Act making provision for the Debt," while it authorized a loan, allowed a present interest of six per cent. upon only four-ninths of the assumed debt—a deferred interest upon two-ninths of it; and only three per cent. on the remaining three-ninths of it, "producing, on the whole," as Hamilton remarked, "too good a bargain for the United States."*

Another difference in the two systems, unfavorable to the creditor, resulted from the smaller means granted to the sinking fund. If the loan, payable one half in specie,

* "The perverseness of the Pennsylvanians has made them risk every thing for Philadelphia. One of them has often defied the friends of the Assumption to hinder the passage of the Funding system. The Senate had become a scene of discord upon that subject; and partly from aversion to all funding, and

had been authorized, and if the loan which was authorized for twelve millions of dollars had not been confined in its application to the Foreign debt, the amount employed in the purchase of the Domestic debt would have been larger; and, although the Government would have thus made a larger gain, the rise in the value of the stock would have been much accelerated.

The mode in which the two systems operated, was also widely different. By the Funding act, the amount of the debts of each State to be assumed, was arbitrarily specified; and a provision was stipulated for the balances beyond these amounts, which should appear on a final settlement. Hamilton's conceded plan, on the contrary, proposed as to such balances: that each State should be charged with its proportion of the aggregate of them, according to some equitable ratio to be devised; in order, to equalize the contributions of the States; the result of which adjustment, if these contributions should be disproportionate, would be to show some creditor and some debtor States. To obviate the necessity of collecting the debtor balances, he contemplated a second process—to transfer the debts of the debtor States, to the credit of the creditor States, observing the ratio of the first apportionment. Thus the debtor balances would be cancelled; and the United States would provide for the creditor balances in stock, at a reasonable interest, but not transferable.

Another difference between the two systems also merits notice. In the Legislative provisions, there is no

partly from a desire to show, that refusing the State debts would make the terms of the other debt worse, they have excluded the alternatives, and offer a simple four per cent. to the creditor. This is playing Rhode Island with one-third of the debt; and I cannot think of it without indignation. In short, it was becoming probable, that the whole would be postponed to the next Session."—Ames, i. 81.

specific appropriation of the funds to be provided, to any particular parts of the debt. In Hamilton's plan, the duties on distilled spirits were to be applied expressly, in the first instance, to the payment of the interest on the Foreign debt. The surplus of these duties, together with the product of the other duties, were secured to the purposes to which they were to be applied, by an appropriation, coextensive with the debt. The reasons for thus appropriating the excise to the Foreign debt, and to the support of Government, are not mentioned. As the Foreign debt was esteemed of the most sacred character, and as the support of the Government was necessary, it may be presumed to have been his object, to render permanent, a system which would operate as a tax upon luxuries, "a great part of them foreign luxuries, and some of them in the excess, with which they were used, pernicious luxuries;" by which means an accumulation of the burthens upon commerce would be avoided, and the dependence of the Government upon so uncertain a resource, be lessened.

The first law for the creation of revenue, and the encouragement of manufactures, was that introduced by Madison; and passed, with many alterations, on the first of June, seventeen hundred and eighty-nine. The remaining revenue, exclusive of that from the Postage of letters, was to be derived from the Tonnage duties, imposed by the Act of July the twentieth, seventeen hundred and eighty-nine; which levied various rates of duty on the tonnage of ships and vessels entered in the United States from foreign ports; and, in certain cases, in one port of the United States from another, and was of indefinite duration.

Madison's revenue act was repealed by an act, impos-

ing the same rates of duty, but applying them differently. This substitute was repealed by the "Act making further provision for the payment of the debts of the United States,"—the second fiscal enactment, under Hamilton's Report. It substituted new, and generally increased rates, specific and ad valorem. The lowest ad valorem rate was continued at five per cent., but the number of articles to which it applied was narrowed; and, instead of a discount in favor of American bottoms, an addition of ten per cent. was made to the disadvantage of foreign bottoms. The number of free articles was a little extended, in further encouragement of agriculture and manufactures; and the existence of these duties, as previously mentioned, was rendered coextensive with the duration of the debt, to discharge which they were appropriated; Congress reserving the right to substitute other duties or taxes of *equal* value.

The last result of the Legislation of this Session, of which Hamilton's "Report on the Public Credit" was the basis, has been mentioned, as "An Act making provision for the Reduction of the Public Debt," the principles of which are stated to have been embodied in his Report of the seventh of August, seventeen hundred and ninety.

This act premising, that it is desirable by all *just and proper means to effect a reduction of the Public debt*, and that the application of the surplus revenue to that object, will not only contribute to this desirable end, but will be beneficial to the creditors of the United States, by raising the price of their stock, and be productive of considerable saving to the United States, enacts—that the surplus of the duties on imports and tonnage, for the year seventeen hundred and ninety, be applied to the purchase of the debt, at its market price, if not exceeding the par or true value of it; that the purchases be

conducted under the direction of the President of the Senate, the Chief Justice, the Secretary of State, the Secretary of the Treasury, and the Attorney-General; who, or any three of whom, with the approbation of the President, were authorized to cause them to be made under such regulations as they should adopt, with a provision, "that *the purchases should be made openly, and with due regard to the equal benefit of the several States*"—that the accounts of the application of the Fund be settled, as other public accounts, accompanied with returns of the amount of the debt purchased, at the end of each quarter of a year; and, that a full and exact report of the proceedings of the Commissioners be laid before Congress, within fourteen days after the commencement of each session.

In addition to this Fund, that the President be authorized to borrow any sum not exceeding two millions of dollars, at an interest not to exceed five per cent., to be applied to the purchase of the debt, under the same regulations as the first-mentioned fund, with a provision "*that out of the interest of the debt to be purchased, there should be appropriated annually, a sum not exceeding eight per cent. of the sums borrowed, towards paying the interest, and reimbursing the principal of these sums.*" * To guard against any deficiency of means to pay the interest on the debt for the year seventeen hundred and ninety-one, authority was given, to reserve out of the first-mentioned fund, the necessary sum to supply any such deficiency. In addition to which, by the Funding act, the proceeds of the Western lands, were also appropriated to the Sinking fund.

In consequence of the Act regulating the Post Office Department having failed, no pledge of the postage, as

* The effect of this sinking fund on the sum loaned, can be shown by an equation, to extinguish the debt in twenty-three years and about nine months.

proposed in Hamilton's report, was given; and no permanent appropriation of it was made.

To complete the arrangement as to the State debts, an act was passed to provide more effectually for the settlement of the accounts between the United States and the individual States.

This act created a Board of Commissioners, to settle the accounts which had accrued during the War, for the general or particular defence, finally; "according to the principles of general equity." Claims previously admitted were not to be re-examined. The credits and debits of the States, on the books of the Treasury, for bills of credit, issued subsequent to the eighteenth of March, seventeen hundred and eighty, were to be liquidated on principles of equity to specie value.

The aggregate of the balances of their advances and disbursements were to be apportioned between the States according to the rule of the Constitution, as to Representation and direct taxation; and, within twelve months after the balances were struck, were to be funded, on the same terms with the other parts of the Domestic debt of the United States, but not to be transferable. This law was a recapitulation of the provisions in the act passed by the Congress of the Confederation; provisions which could not be departed from, without a violation of the public faith.

The leading principles of Hamilton's fiscal plan, as stated by him, were, "that the public debt ought to be provided for in favor of those who, according to the express terms of the contract, were the true legal proprietors of it; that it ought to be provided for, in other respects, according to the *terms* of the *contract*, except so far, as deviations from it should be *assented* to by the creditors, upon the condition of a *fair equivalent*; that it

ought to be *funded*, on *ascertained* revenues, pledged for the payment of the interest, and the gradual redemption of the principal; that the debts of the several States ought to be comprised in the provision on the same terms, with that of the United States; that, to render this great operation practicable, avoid the oppression of trade and industry, and facilitate loans to the Government, in cases of emergency, it was necessary to institute a NATIONAL BANK; that indirect taxes were, in the actual circumstances of the country, the most eligible means of revenue; and that, direct taxes ought to be avoided as much, and as long as possible."

As to the first principle, involving the question of discrimination, it is decisive, that the contract was, in its essence, a contract between the Government and the actual holder. The extent of the alienation, on which Madison defended the discrimination, was much exaggerated. Though the amount assigned cannot be accurately ascertained, yet it may be safely stated, that when Hamilton's Report was made, that amount did not exceed one-third*—the terms, varying from par to one-eighth of the nominal value, though only a small part, at the lowest value.

However this may have been, no doubt can exist that the discrimination would have opened a wide field of speculation, to which the Funding act, by producing stability in values, gave the only proper and efficient check. Had a discrimination taken place, it would have resulted in a fraud on the alienees, without benefit to the original holders; as the majority of its advocates disclosed their design to leave the difference in the public coffers. That such an attempt should have been made, is a humiliating fact in our history. It failed, but it laid the

* Hamilton's Works, vi. 650.

foundation of a schism, which soon divided the nation into two great parties: the SUPPORTERS and the ASSAILANTS of the PUBLIC FAITH.

As to the second governing principle of Hamilton's system, that the debt, "ought to be provided for, in other respects, according to the *terms* of the *contract*, except so far as deviations should be *assented* to by the creditors, upon the condition of a *fair equivalent;*" attention is arrested by the extraordinary fact, that one of the most urged, and most successful objections was, that he did not take advantage of the depreciated state of the debt, and thus, as was alleged, save to the public a moiety of it!

Madison, it has been seen, declared, "that he was much inclined to doubt, whether it could be carried into execution;" and a leading Senator thought, that a provision of more than three per cent. must fail. Hamilton, on the contrary, believed, that a fulfilment of the National stipulations was the easiest—the surest—and the wisest means of attaining the great end in view; and the result has proved the wisdom of his policy.

This was to be done, either by annual provisions for the interest and occasional redemptions of principal, leaving the debt as an annuity, payable at pleasure, without any specific pledged appropriations; or to fund it. The former, though a strict performance of its contracts would have deprived the nation of the resources of its credit; the latter, gave it all the large, various benefits of that credit.

The terms, on which he proposed to fund the debt, were suggested by the various unsound opinions, that prevailed in relation to it; and which taught the necessity of concessions, to obtain an early provision for it. "The unsoundness of the public counsels," he observed, "indicated that either a total failure to provide for it, would

have been the consequence of delay; if not, a provision violating principles, and replete with injustice; a wreck of the National credit, endangering the general security of property, and the existence of the Union. To have insisted on more rigid terms, would have been to have sought reputation at the hazard of a nation's welfare."—"Would time have pronounced a favorable sentence upon a different course? Would it not have said, that goodness is often not an absolute, but a relative term; and that it was a culpable refinement to have sacrificed the prospect of accomplishing what was substantially good, to the impracticable attainment of what was deemed theoretically perfect?"

Was a fair equivalent offered to the creditors? As the funding was no part of the contract; that, he regarded as superadding a material advantage to the creditor's primitive rights. The additional security thereby given, was a reasonable ingredient of commutation to be proposed for something to be relinquished. The debt was thus rendered immediately convertible, at a greatly increased value; by its qualified irredeemability, its duration was prolonged, and that value more augmented. A full equivalent was offered upon strict calculation. The force of public confidence, which his system superinduced, soon rendered it more than an equivalent.*

* Before any Final settlements began to be issued, in the year 1784, Loan Office certificates were commonly sold at 2s. 6d. per dollar, or 6s. 8d. per pound; but, although there was a prevailing prejudice in their favor, they gradually bore the same prices with the others. June 27, 1784, Finals were 2s. 6d. *a* 3s. per pound, and continued about this price in 1785, '86–'87. On 22d July, 1788, the Loan Office certificates and Finals, sold for 4s. 6d. in the pound; and, in May, 1789, at 5s. per pound. On 15th December, 1790, the deferred Six per Cents. were sold at 7s. 2d. in the pound. *Twelve* months *after* the Funding bill had passed, they rose to 12s., subsequently to 15s.; and the Six per Cents., bearing a present interest, commanded 25s. in the pound or twenty-five per cent. above their par value.

The other great feature in his report—the Assumption of the State Debts—is to be viewed either as a measure of substantial justice, or of sound policy. As these debts were incurred for the common defence, substantial justice required that they should be charged upon all the citizens of the United States. The state of the accounts precluded an exact settlement, which had been in vain attempted. An adjustment, on equitable principles, only remained.* "My proposition to Congress," Hamilton stated, "embraced the entire debt of each State, which would have given, in the first instance, complete relief. The limitation by Congress is not chargeable on my plan. It was the effect of a compromise between the zealous friends of assumption, and some, who opposed or doubted, and was dictated in some degree by a spirit of caution." * * * "The state of public opinion was an insuperable obstacle to an entire Assumption of the State debts, and a dereliction of the settlement of accounts. Almost every State flattered itself with being a creditor, and imagined a particular interest in a settlement. The renunciation of it would consequently have destroyed the confidence, and disturbed the harmony of the States. Else, it would, undoubtedly, have been the best policy, and as good justice, to have renounced it. There was no ground of procedure more likely to promote mutual justice and convenience, than to assume it as a principle, that each

* An objection has been raised, that these debts were assumed at random; that more than the necessary amount was assumed; that some States received what they were not entitled to; and, that a total loss to the United States resulted. If this all had been so, it is to be remembered, that the arbitrary amount, as secured, was the act of the Senate; was no part of Hamilton's plan, which could not have led to the consequences objected to, by Gallatin, in his "Views of the Public Debt, etc.," 1800. His plan, conceding to public opinion, was, that the amount assumed and provided for, should be charged to the respective States, to *abide an eventual arrangement.*

State, in the war, had exerted itself to the extent of its faculties; that the subsisting debts were to be paid out of a Common Treasury; and, that all retrospection and reliquidation, between the States, was to be abandoned. But this great and liberal measure was impossible. All parties concurred in demanding a settlement."

But, as a question of policy, this Assumption of the State debts may be pronounced the most signal achievement in Hamilton's financial career. It relieved the States from unequal and oppressive burthens,* left the fiscal power of the General Government disembarrassed by the collisions, necessarily incident to a concurrent power of taxation; one of the most delicate of the many compromises of the complex Federal Constitution—a theory offering, as Hamilton observed, "a new example in the world —a concurrent and co-ordinate authority in one general head, and in thirteen distinct members of a confederacy, united under that head, to impose taxes in detail upon all individuals, and upon all taxable objects." It permitted that uniformity of contribution, which that Constitution prescribed; by preventing conflicts among the public creditors, consolidated and confirmed the public credit; and, removing from the States the temptation to impair the obligations of their contracts, preserved the great charter of the Union inviolate, and raised and sustained the public morals. It was objected, that it increased the

* Massachusetts forthwith repealed her excise law. "It is a curious fact," Hamilton remarked, "which has not made its due impression, that in every State, the people have found relief from the Assumption, while an incomparably better provision than before existed, has been made for the State debts." "Let the citizens of Virginia be appealed to, whether they have not, in consequence of being exonerated from the necessity of providing for the debt, been relieved in degree, or kind, from burthens, which before pressed heavily upon them. They must answer in the affirmative. The same inquiry will find the same answer in every State."

mass of the debt. But this could not be so, the operation being merely a transfer of the State debts to the Union, making them a common charge;* but not varying the amount—an effect proved by the actual result. "The only proposition," Hamilton subsequently observed, "which would have swelled the debt artificially, was one made by Madison—that all the parts of the State debts, which had been paid or otherwise absorbed by them, should be assumed, for the benefit of the States, and funded by the United States"—a proposition which twice failed, and never was adopted. "The great inducements with me," he avowed, "to the Assumption, were chiefly, giving simplicity and energy to the National Finances—the avoiding of the collisions of multifarious and conflicting systems —the securing to the Government, for National exigencies, the complete command of the National resources—the consolidation of public credit. These were the commanding motives, and it is believed, they were solid."

These great objects were all attained. A general security was given to property. Commerce received a new and increasing impulse. A safe medium of exchange was supplied—foreign capital was not only attracted for investment in the public funds, but the transfer of foreigners, with their property, made easy and secure; and thus vast accessions of capital induced. A basis was laid for a sound, sufficient, and uniform currency. Labor, and genius, and enterprise were loosed from their shackles, and assured of their reward. The public faith stood firm and erect.

The people wondered at a system, which, while it lessened their contributions, discharged punctually the interest, and absorbed the principal of the debt. They

* Hamilton's Works, vi. 636 to 651.

looked with astonishment at the magic influence which rendered a nation's debt the greatest instrument of its wealth; and were taught to distrust the author of the public prosperity, because they were unable to understand the means, by which it was accomplished.*

* George Cabot to Goodhue, 1790. "I never considered the National Government as being more than half established by the *nominal* acceptance of the form. To take from our Newspapers the metaphor they have used, it was an arch, but to me, the key-stone was wanting. The actual exercise of certain powers to the exclusion of the States, would be finishing the work. Till this takes place, I cannot think the country completely safe from the danger of disunion; and consequently, anarchy, and wretchedness. I am no holder of public securities of any kind; and never would be interested in any of our funds, on any terms; but I consider the Assumption of all our State debts, as so essential, that as an individual I would rather pay a fourfold interest through the National Government, than a half per cent. through the medium of the State, because the former may give us protection, the latter cannot."

CHAPTER LXII.

It has been seen, that the friends of Hamilton urged a temporary act, imposing a general rate of duties, instead of the Impost bill, introduced by Madison.

In the performance of the official duties imposed upon the Secretary of the Treasury by that bill, and by the laws for the collection of duties, for the registration of vessels, and for the regulation of the coasting trade, he found these acts extremely imperfect, involving much uncertainty, alike embarrassing to the collectors of the revenue, and to the public.

With a view to remedy these defects, he was directed, on the nineteenth of January, seventeen hundred and ninety, to report to the House such information as he had obtained respecting the difficulties which had arisen in the execution of these laws. He made a full Report on the twenty-third of April following.

Anxious, as he must have been, in the impoverished condition of the Treasury, to fill its coffers, he submitted to Congress, whether they ought not to waive all the duties which had accrued between the time when the Impost act took effect, and when the organization of the customs was completed.

This proposal was followed by suggestions, having in view, among other objects, the protection of the man-

ufacture of steel—the promotion of the fisheries—the extension of the East India trade—the exemption from duty of native commodities exported from the United States and brought back—also of ship stores, and of the furniture, clothing, and professional apparatus of persons arriving from abroad—the correction of an error in the former act, by which hemp, intended to be charged, was free; and a provision authorizing entries for exportation, the omission of which was justly complained of, as "a great hardship, and contrary to the prevailing usage of commercial nations."

In relation to the act imposing duties on tonnage, its conflicting provisions "are pointed out, the proper construction stated, a restitution of certain sums paid" in consequence of a misapprehension of a new law "urged, not only as equitable, but calculated to give a favorable impression of the liberality of the Government;" and the entire abrogation of all tonnage duties upon entries from district to district of the United States, except where freight had been taken in at one district for another, and in such case, half tonnage on vessels registered, but not licensed, is advised.

In respect to the act for the regulation of the collection of duties on tonnage and imports, he reserved his observations, as to the arrangement of the Districts, to be communicated to a special committee, the result of whose consultations is to be seen in the amendatory law, soon after passed.

To guard against frauds, while he observed, that "Justice to the body of the merchants of the United States demands an acknowledgment that they have very generally manifested a disposition to conform to the national laws, which does them honor, and authorizes confidence in their probity," he proposed, in fulfilment of

this act, which contemplated, but gave no authority to provide them, a proper "establishment of revenue cutters" on the coast, giving the details of the number, size, armament, and equipment of them, with an estimate of the expense. To procure proper officers, he advised, that "a liberal compensation be given," and that they should be commissioned, "as officers of the Navy, to induce fit men more readily to engage, and attach them to their duty by a nicer sense of honor." He subsequently issued circulars to the collectors, prescribing forms for the payment of this service—the component parts and, rates of rations to be allowed, with the commutation—authority for directing their movements, and for their repairs.

This proposition was followed by numerous and very important suggestions, so to vary the provisions of the existing law, as to secure the collection of the revenue; and, at the same time, relieve commerce of many unnecessary delays, charges, and embarrassments; and the providing for the revenue officers, "competent allowances." Changes were proposed in the provisions as to drawbacks, to prevent loose and constructive swearing, and to relieve the exporter from the too great discretion of the Custom House officers as to the bonds to be given, with other measures embraced in the draft of a bill, previously submitted by him. These were incorporated in the act, subsequently passed, for "the Collection of duties," the provisions of which bear testimony to the sagacity and large commercial knowledge of its author.

Gross misconstructions of the views of the Secretary of the Treasury on a very important point in his policy, render it proper to introduce his remarks on that section of the act, which *provided for the receipt of the duties in gold and silver coin* only. He observed, in reference to the instructions he had given on this subject:

"The Secretary has considered this provision as having for object, the exclusion of payments in *the paper emissions of the particular States*, and the securing the immediate or ultimate collection of the duties in specie, as intended to prohibit to individuals,* the right of paying in any thing except gold or silver coin; but not to hinder the Treasury from making such arrangements, as its exigencies, the speedy command of the public resources, and the convenience of the community might dictate; those arrangements being compatible with the *eventual* receipt of the duties in specie. For instance, the Secretary did not imagine that the provision ought to be so understood as to prevent, if necessary, an anticipation of the duties by Treasury drafts, receivable at the several custom houses. And, if it ought not to be understood in this sense, it appeared to him, that the principle of a different construction would extend to the permitting the receipt of the notes of public banks issued on a specie fund. Unless it can be supposed, that the exchanging of specie, after it had been received for bank notes to be remitted to the Treasury, is also interdicted; it seems difficult to conclude that the receipt of them, in the first instance, is forbidden. Such were the reflections of the Secretary with regard to the authority to permit bank notes to be taken in payment of the duties. The expediency of doing it appeared to him to be still less questionable. The extension of their circulation by the measure, he said, is calculated to increase both the ability and the inclination of the banks to aid the Government. It also accelerates the command of the product of the revenues for the pub-

* May 30th, 1789. It had been proposed in New York to make the impost payable in the specie securities of that State; and Hamilton was requested by a leading Federalist of North Carolina, to make the paper emissions of that State, receivable into the National Treasury.

lic service; and it facilitates the payment of the duties. It has the first effect, because the course of business occasions the notes to be sent beforehand to distant places; and, being ready on the spot, either for payment or exchange, the first post, after the duties become payable or are received, conveys them to the Treasury. The substitution of Treasury drafts, anticipating the duties, could hardly be made without some sacrifice on the part of the public. As they would be drawn upon time, and upon the expectation of funds to be collected, and of course contingent, it is not probable that they would obtain a ready sale, but at a discount or upon long credit. As they would be more or less liable to accident from the failure of expected payments, there would be continually, a degree of hazard to public credit; and to other considerations, it may be added, that the practice of anticipations of this kind is, in its nature, so capable of abuse, as to render it an ineligible instrument of administration, in ordinary cases, and fit only for times of necessity.

"If the idea of anticipation should be excluded, then the relying wholly upon Treasury drafts would be productive of considerable delay. The knowledge that funds were in hand must precede the issuing of them. Here would, of course, be some loss of time; and, as the moment of demand, created by the course of business, would frequently elapse, there would, as frequently, be a further loss of time in waiting for a new demand. In such intervals, the public service would suffer, the specie would be locked up, and circulation checked. Bank notes being a convenient species of money, whatever increases their circulation, increases the quantity of current money. Hence, the payment of duties is doubly promoted by their aid; they at once add to the quantity of medium, and serve to prevent the stagnation of specie. The ten-

dency of the measure to lessen the necessity of drawing specie from distant places to the seat of Government results from the foregoing considerations. The slow operation of Treasury drafts would frequently involve a necessity of bringing on specie to answer the exigencies of Government, the avoiding of which, as much as possible, in the particular situation of this country, need not be insisted on."

But, he added, "convinced, as the Secretary is, of the usefulness of the regulation, yet, considering the nature of the clause upon which these remarks arise, he thought it his duty to bring the subject under the eye of the House. The measure is understood, by all, to be temporary. Indeed, whenever a National Bank shall be instituted, some new disposition of the thing will be a matter of course." The measure was not disapproved.

An act was also passed "for the Establishment and support of Light Houses." Hamilton made a report showing the number and condition of the Light Houses. Of these, there were only, at this time, ten, which had been supported by the States in which they were. Of these ten, Massachusetts had erected six—Connecticut, New York, Pennsylvania, and South Carolina, each, one. He proposed, as a temporary arrangement, which still continues, that the particular superintendents in the several States (except Pennsylvania and New York), should be under the direction of the collectors of the principal ports; and, that the expenditures relating to the establishment, should be by contract, subject to the ratification of the Secretary of the Treasury, with the approbation of the President. He submitted to the President the names of persons to be appointed, and gave estimates of their salaries.* The

* In 1841, the number of Light Houses was 286.

conduct of this branch of the public service remains in the Treasury Department; and a comparison of it with that of other countries, shows its efficiency and economy.

In his observations upon the act for registering and clearing vessels, and regulating the coasting trade, many inconveniences of the existing law are pointed out, and remedies indicated, in relation to a subject, as to which, he observed, "the more it is examined, the more difficult it appears to reconcile the convenience of those branches of trade" (the Fisheries and Coasting trade) "with due precautions for the security of the Revenue." These are too minute and numerous to be stated.

After remarking, with deference to Congress, "that these acts have fulfilled their objects in all respects, as well as could reasonably have been expected, from the first essay on so difficult a subject; that it was foreseen, that experience would suggest the propriety of corrections in the system; and, that it was equally to be inferred, that further experiment will manifest the expediency of further correction; that the work must be progressive, since it can only be by successive improvements, that it can be brought to the degree of perfection, of which it is susceptible;" the Report closed with a proposal, that a Superintendent should be appointed, in each State, or revenue subdivision of the United States. This officer, besides being charged with the receipt of all moneys arising within his district, and with their transmission to the Treasury by drafts or other negotiable paper, by which means the necessity for the transportation of specie would be lessened, was also to have, as his primary duty, a supervision of all the Revenue officers within his district, and to communicate exact and impartial information of the operation of the Revenue laws—an arrangement which he deemed, "of real importance to the public ser-

vice, and to the efficacious discharge of the trust reposed in him."

This proposition, in its extent, has never been acted upon, though the subsequent experience of the country has shown its wisdom.

The suggestions of this Report, as to the substitution of new and increased duties; as to the encouragement of manufactures and the fisheries; and the advancing a direct trade with India and China, were carried into effect, by the Act, previously mentioned, "making further provision for the payment of the debts." Those as to tonnage, by "an Act imposing duties on tonnage," and the proposed changes in the provisions for the collection of duties, in the Registry and Clearing acts, and in the coasting trade, were embraced in an act "TO PROVIDE MORE EFFECTUALLY FOR THE COLLECTION OF THE DUTIES ON IMPORTS AND TONNAGE;" which, beside a comprehensive organization of the collection of the customs, defined the mode of ADMIRALTY proceedings. The previous acts on these several subjects were repealed, and then the REVENUE SYSTEM of this country, as framed by Hamilton, was established, and, with few innovations, some of a very questionable policy, is now in force.

The circulars issued by him to the Collectors of Customs exhibit his constant and close supervision of their duties. Lest any oppressive proceeding should be had towards the merchant, or the revenue should suffer, he instructed them, that "the public interest would be promoted by the earliest information when breaches of the Revenue laws take place." Duties had been received on estimates formed from invoices—he ordered, that they must be ascertained on the actual landing of the goods, and by no other means than by measuring, weighing, and guaging; and he prescribed the mode of calculating the tare.

Doubts had arisen as to the proper mode of ascertaining foreign tonnage. Instead of relying on the Register, he directed that it be done by admeasurement. To prevent fraud, he ordered that allowances for damage should be made by appraisers; and soon after proceeded to digest a general uniform plan of Custom House documents, to "conduce to order, facilitate business, and give satisfaction." Instructions were also given as to the mode of paying PENSIONS; and a circular was issued as to the prosecution, receipt, appropriation and distribution of fines, forfeitures and penalties. These official directions were given in frequent succession, as experience suggested; and were intended by him to be embodied in a new law, regulating the coasting trade.

With the Reports previously mentioned, the legislation respecting the restoration of the public credit also gave rise to two other reports from his pen. One, made near the end of the Session, related to the FINAL SETTLEMENT certificates, of which a great number had been lost or destroyed. By this, a plan was proposed, embracing several cautionary regulations for the renewal of such as had been destroyed by accident.

The other report was communicated to the House on the twentieth of July. It embraced a *plan* for "THE SALE OF THE PUBLIC LANDS."

Not only the property in this domain, but the policy to govern in the sale and disposition of it, had been subjects of long and continued discussion during the Confederation. As to the former question, the tenacity of Virginia and the extent of her territorial claim had been, it is seen, a chief obstacle. So far, indeed, had her pretensions been carried, that, Madison is found, as late as seventeen hundred and eighty-two, contemplating a civil war* in

* Infra, ii. 11, note.

their behalf. Her reluctant cession of them, in seventeen hundred and eighty-four, was followed by that of Massachusetts, of a tract of much more limited extent, in the succeeding year. In eighty-six, Connecticut executed a conveyance of her Western lands, as embraced in her Colonial charter, reserving what was thence called her "Western reserve," of which her territorial jurisdiction was subsequently relinquished. South Carolina, in eighty-seven, also ceded her lands; and was followed in eighty-nine by North Carolina. That of Georgia, which, as will be seen, was the subject of much negotiation and compromise, was deferred, until eighteen hundred and two. The importance of these cessions is not alone to be measured by the vast area thus vested in the United States, to be considered as "a COMMON FUND for the use and benefit of the whole Federal Alliance," but, as preventing territorial controversies, growing out of contested limits under conflicting charters, which must have resulted, otherwise, in internecine wars of boundary. As to the mode of sale of these lands, the division of opinion strongly marks the prevailing tendency of the two great sections of the United States. With a just appreciation of the value of their subdivision into TOWNS, next to the equal division of inheritances, in importance, as a means of securing and perpetuating a Republican Government, the Eastern States were strongly attached to townships; the Southern were equally in favor of "indiscriminate locations."* The places of sale were also a matter of debate.

The ordinance which passed in May, seventeen hundred and eighty-five, seems, in its very title, to show the unsettled state of public opinion. It was entitled "an ordinance for *ascertaining* the mode of disposing of lands

* Mad. Debates, i. p. 640.

in the western territory." It provided, that a Surveyor be appointed by Congress, or a committee of States from each State, under the direction of a Geographer; that the territory be divided into townships of six miles square,* bounded by lines running due North and South, and others crossing these lines at right angles; the first North and South line to begin on the Ohio, at a point due North from the Western terminus of the line run as the Southern boundary of Pennsylvania. The plots of the townships to be divided into lots of one mile square, or six hundred and forty acres. When seven *Ranges* † of townships were surveyed, the plans were to be returned to the Board of Treasury; of these, one-seventh part was to be reserved, by lot, for the continental army; the residue to be drawn for in the names of the thirteen States, according to their respective quotas in the last requisition of Congress. Copies of these allotments were to be sent to the commissioners of the continental Loan Offices, in each State; and to be sold, after public notice, at vendue. Four numbered lots were to be reserved to the United States; one number of every township was appropriated for the maintenance of public worship; and one-third of the metals, to be disposed of as Congress should direct. The price was limited to one dollar per acre, payable in specie or its equivalent in the public securities. Two years after this ordinance, an act was passed for the sale of the surveyed lands, not quite seven hundred thousand acres, at the seat of Congress—instead of at points in the several States. As to the mode of selling the unsurveyed lands, there was a diversity of opinion.

* Each township would thus contain 23,040 acres.

† A *Range* was any series of contiguous townships, laid off from North to South.

It has been seen, that during the previous session of Congress, the question as to the proper disposition of the public domain, was presented on the petition of an individual, for permission to purchase, and that this important matter was ultimately referred to the Secretary of the Treasury.

Hamilton's first report on the Public Credit, contemplated an appropriation of the proceeds of the sales of this territory to the Sinking Fund, which gave the subject additional importance in his mind. "Two leading objects of consideration," are stated by him, as those to be regarded in the promotion of this plan. "One, the facility of advantageous sales, according to the probable course of purchases; the other, the accommodation of individuals now inhabiting the Western country, or who may hereafter emigrate there." "The former, as an operation of Finance, claims primary attention—the latter is important, as it relates to the satisfaction of the inhabitants of the Western Territory, or who may emigrate there. Contemplating purchasers in three classes, as moneyed individuals, and companies buying to sell again—associations of persons intending to make settlements; and single families or persons now residents there or who might thereafter emigrate," he proposed for the convenience of all classes, A GENERAL LAND OFFICE at the seat of Government—for the large purchases, either by citizens or foreigners, where agents could be more easily found, and where the contracts might best be adjusted. For the accommodation of the inhabitants of, or emigrants to the West, he advised subordinate offices, one in the North-Western, and the other in the South-Western Governments. Each of these offices, the general, and the subordinate, was to be under the superintendence of three

Commissioners, "either pre-established officers of the Government, to whom the duty may be assigned by law, or persons specially appointed for the purpose."

To facilitate their operations, and obviate inconveniences, he proposed to vest them with a considerable latitude of discretion, subject to several regulations and limitations which are set forth. Among these the first is, that no land should be sold, to which the Indian Title had not been extinguished. After reserving sufficient tracts for the subscribers to the proposed loan in the public debt, the residue was to be subdivided, either into lots not exceeding one hundred acres for each actual settler, or into townships of ten miles square; the price to be thirty cents* per acre, payable either in gold and silver, or in public securities. One quarter was required to be paid down, and the residue on a credit, not to exceed two years, with security other than the land sold; but credit was only to be granted, in cases of the purchase of an entire township. No title to be given for any tract or quantity, beyond the quantity actually paid for. The sales to individuals were to be conducted by the commissioners of each of the subordinate offices, under the superintendence of the Commissioners of the General Land Office.

A Surveyor-general was to be appointed with power to appoint deputies, who was to be charged with all the duties formerly confided by the confederation to the Geographer-general. The warrants were to be directed to the Surveyor-general from the General Land Office, and to the Deputy Surveyors from the subordinate Offices, to be signed by the respective Commissioners. The Treasurer of the United States was to be the Receiver of all payments, at the General Land office; and the Secretaries

* In his report on public credit, he had proposed *Twenty* (20) cents, but Congress valued them at 30 cents.

of each of the Western Governments of those at the subordinate offices, giving adequate security.

Controversies concerning rights to Patents or Grants were to be decided by the Commissioners, which Patents were to be signed by the President of the United States, the Vice-President, or other officer acting in his stead—the surveys were to be at the expense of the purchasers. The object of these regulations was stated to be, to indicate the general policy of the Legislature, leaving room for accommodation to circumstances which could not be beforehand accurately appreciated; and for varying the course of proceedings, as experience shall suggest, and thus avoiding the danger of embarrassments to be apprehended from an endeavor at greater precision, and more exact detail.*

In addition to the consideration of these important topics, the attention of the Secretary was called to the examination of a great variety of subjects, by the practice, which then existed, of referring petitions for claims and for relief, to the Head of the Treasury Department.

No record exists of the Reports made by him in the performance of this onerous and invidious duty. But, from a very cursory notice of those on the files of Congress, it appears that many of them were very voluminous, and upon extremely intricate questions; which may be inferred, when it is recollected, that they embraced claims of great moment depending since the Revolution.

Notwithstanding the time devoted by Congress to the Funding and Revenue systems, other subjects of great importance, it is seen, had engaged its attention.

An Act was passed to give effect to various laws of general interest in North Carolina, recently become a

* Hamilton's Works, iii. 84.

member of the Union. In pursuance of the directions of the Constitution, provision was made for a CENSUS; and an uniform Rule of Naturalization was established.

A bill was enacted to promote the progress of the useful arts, granting the protection which the confederation had not the power of conferring on the inventions of American genius. A Criminal code was adopted, in which, with a few exceptions, compassion for human infirmity was blended with the vigor due to society; and in respect to the great crime against the State, the crime of treason, an offence which the Courts of the United States have been rarely called upon to try, it was limited to the cases of levying war against the United States, or adhering to its enemies. Guards were provided to ensure to the accused an impartial trial; and, in the mild spirit of the Constitution, which prohibited forfeiture or corruption of blood, the barbarous aggravations to the punishment of death, which deform other codes, were rejected.

The Military establishment was fixed. Measures were taken to give effect among the States to the Judicial proceedings of each other. The Trade and Intercourse with the INDIAN TRIBES was regulated, provisions were made for a Diplomatic establishment, and laws were passed for the encouragement of learning.

These acts of legislation, marked with wisdom, received an extended application by an Act for the Government of the North Western Territory, and by the entrance of the only dissenting State into the Union.

In the first month of this year, the Assembly of Rhode Island passed a bill calling a Convention to consider the Constitution of the United States. It was rejected by her Senate, then reconsidered, and carried by the casting vote of the Governor. In the mean time, her commercial community, deprecating their exclusion from the Union, were

extremely active; and Newport, its principal mart, resolved to apply to Congress for relief.

Connecticut, from her proximity, took a strong interest in the decision of that State; and, it was resolved, that she should not enjoy the benefits of the enlarged measures of the Government of the Union, without partaking of its burthens. With this view, a bill was introduced into the Senate, by Elsworth, to prevent Rhode Island from bringing goods into the United States; and authorizing a demand of money from her. The bill passed on the eighteenth of May, and on the twenty-ninth, her Convention ratified the Constitution. Thus, all the original parties to the Confederation were united under one National Government. This important Session closed on the twelfth of August.

The establishment of the Fiscal system changed the tone of the American mind. A sense of present benefit inspired the public creditors with gratitude. Men of reflection entertained an assured confidence, that the National character would be redeemed; and among the great mass of the friends of the Government, the gloom which had sat upon their long deferred hopes, gave place to a wild and intoxicating joy.

On the annunciation of the passage of the Funding bill, it was stated, "that the Assumption of the State debts, rivets the chain of the Union, and blanches with despair the enemies of our National Constitution. By this, the monster with thirteen heads, receives his death wound; and all the stings of faction are drawn. The State Governments, while protected by one head in the participation of justice, will sensibly realize the blessings which flow from Union. The machinations of State Demagogues to divert the people from the steady pursuit of their best interests, will prove in vain."

Feeling how much the establishment of the Financial

system had been obstructed by the loose principles of many of the opposition, and by the envy and ambition of their leader in the House of Representatives, Hamilton deemed it the part of wisdom to moderate this exultation.

Instead of encouraging language which could only increase irritation, he made public his wishes, "that the difficulties of legislating upon a subject, the most intricate in its science, should be acknowledged; and allowances be made for the influence of local feelings." The press tempered its zeal, and party violence was, for a time, restrained.

The duty of carrying into effect the laws of the past Session was promptly undertaken, and instructions were issued by the Secretary of the Treasury, to put into operation the Revenue system he had recently framed.

These instructions still essentially govern the offices of the customs; and the system pursued under them has been represented, as combining all the checks essential to the security of the Revenue, with a due regard to the rights and interests of commerce.

The necessary measures to execute the laws relative to the debt, next occupied his attention. With this view, minute regulations were established for the conduct of the several Loan Offices, and for the transfer of the existing evidences of the debt; while, to protect the public creditors from imposition, he published an address* to them, in which, the operation of the Funding system—the advantages promised by it—the entire freedom of assenting to it—and the motives to avoid a precipitate sale of their property, were fully exhibited. To this address tables were annexed, to enable each creditor to estimate the real value of his claims.

* Hamilton's Works, vi. 632; September 1, 1790.

The conversion of the Domestic debt into the stocks recently created, would require time; and was of secondary importance to success in the execution of that part of the Funding bill, by which the duty of negotiating the foreign loans, was imposed upon the President.

Immediately after the enactment of the law relating to the loans, Hamilton prepared instructions to himself, and a power authorizing him to perform that duty.

These instructions were founded upon a Report made by him to the President. In this Report, the question is submitted, "under which act will it be most expedient to authorize the loans being made; whether that of the fourth of August, or that of the twelfth of the present month; or whether it may not be advisable to authorize it *partly under one, and partly under the other.*"

"It is conceived," Hamilton remarked, "that the business may easily take the latter form, if deemed eligible; and this is recommended by the consideration, that it will contribute in a degree, to all the purposes which require to be promoted."

The Report then stated the objects to which the loans would be applied. "Out of two-thirds borrowed on account of the Twelve Million Loan, and one-third on account of the Two Million Loan, the next half year's interest in Holland may be discharged; the arrears of interest on the debt due to Spain may be paid off; a respectable payment may be made to France, as a prelude to more considerable payments; and a sum of consequence to the operation would remain towards the reduction of the debt, and supporting our funds, in conformity to the intention of the last mentioned Act."

The President gave the Secretary of the Treasury a written approval of the power and instructions, with the

qualification, not to open a loan for more than one million at a time, nor a new one until the old was approved; and two days after, executed them in form.

A provisional loan of three millions of florins, previously authorized, was ratified, one-half of which was directed to be applied to the payment of the debt to France; "Its peculiar situation at the present juncture," Hamilton wrote, "contains an appeal to the sensibility, as well as to the policy and honor of this country."

Short, the American Chargé at Paris, had been selected as the agent to make the further loans; and instructions were given to him, containing the precaution to obtain the loan, million by million, on terms directly the most advantageous to the United States, but having strict regard to their permanent credit and reputation.

The discreditable measures entered into by Jefferson, with respect to the transfer to individuals in Holland of the debt to France, have been stated.

An early and judicious disposition of this matter, being of the first importance to the honor and credit of the United States; immediately after his appointment, Hamilton wrote to La Fayette, "if the instalments of the principal of the debt could be suspended for a few years, it would be a valuable accommodation to the United States;" that he contemplated "a speedy payment of the *arrears of interest* then due, and effectual provision for punctual payment of future interest, as it arises. Could an arrangement of this sort meet the approbation of your government, it would be best, on every account, that the offer should come unsolicited, as a mark of good will." A similar intimation was given to Short, the Chargé d'Affaires. In the mean time, various overtures were made for the purchase of the debt. "The success of these ne-

gotiations," Hamilton stated, "would have been an unwelcome circumstance."

It was important to guard against any similar bargains. This consideration dictated the language of his instructions.*

Having directed this agent to obtain a comprehensive view of the state of the foreign market, of the credit of the various European powers, and of the United States, the Secretary of the Treasury advised, that inquiries be made into the conduct of the American Bankers. On this point, he observed, "I shall only remark, that changes of public servants ought never to be made but for cogent reasons. If lightly made, they are not only chargeable with injustice, and are a symptom of fickleness in the public councils; but they destroy the motives to good conduct; and in money concerns, especially, are apt to beget a disposition to make the most of possession, while it lasts. Circumspection in the present case is also recommended by the consideration, that those, whom we have heretofore trusted, risked themselves and their fortunes upon our affairs, when the doing it was not without serious hazard. This is a reason for permitting them to reap the benefits of our more prosperous days, if they have been faithful and are adequate to the trust. A further reason is, that they are now deeply interested in our funds; and, consequently, it is presumable, in our credit."

Part of the Foreign debt was immediately payable. To discharge this, the agent was directed to borrow the necessary amount within the limits prescribed by law. But no loan was to be contracted for the residue, unless upon terms more advantageous, than those upon which the debt then stood.

* Hamilton's Works, ii. 38. Sept. 1, 1790.

Urgent cautions were given not to pay excessive premiums, in order to obtain the appearance of a low rate of interest; both, because it was a pernicious mode of borrowing, and would be an evasion of the law.

To secure advantageous terms, the solidity of the provisions for the debt—the economical scale of the American establishments, the rapid progression of population and wealth, and the peaceful policy of the administration, were indicated as topics to be urged, with force and assurance.

Referring again, particularly, to that part of the debt not yet due, he remarks, "However cordial our disposition to come to the pecuniary aid of France in her present affecting and embarrassed condition, in this early stage of our finances, we could not, in prudence, volunteer payments not due by the terms of the contract, especially too by the expedient of *new* foreign loans, unless it should be attended with some circumstance of advantage in the operation to ourselves. By this, I understand, a lower rate of interest. For according to my speculations on the probable course of exchange between this country, France, and Holland; and between Holland and France for some years to come, I deem it better (whether our payments proceed directly from hence or circuitously through Holland) to have to pay a given sum to France, than an equal sum to Holland.

"The charges, too, upon the new loans will be, to be taken into the account, and an indemnity for them included in the terms of the operation. Calculating only upon the ordinary ones, it does not appear to me, that it would be the interest of the United States to change the form of this debt, unless the rate of interest on the new loans did not exceed four per cent.; and, I own, that in the present aspect of affairs, I see no ground to expect that loans will

be obtained at so low a rate. If the thing should be possible, it must be on the score of some collateral advantage to the lenders; such, for instance, as their being permitted to pay a part in the *effects* or *stock* of France, as was contemplated in the late negotiations. Whether any arrangement of this nature will be a desirable accommodation to France—whether persons of real capital, who would not, in the execution, be obliged to use means prejudicial to the credit of the United States, would be willing to embark in such a plan; whether it would not prove an obstacle to other loans which we may have occasion to make, for other purposes; are circumstances, essential in determining its eligibility, which cannot be known to me; and can only be accurately judged of, by one on the spot.

"I suggest these as hints to you. In exploring or feeling the ground—you will recollect, *that propositions of such a nature ought not to come from us.* If the thing should be capable of being placed upon a footing conducive to our interests, we ought only to appear to sanction what other parties desire of us. And we should, in no event, make any movement that may injure our reputation, or place us in the light of a people, desirous of making hard bargains at the expense of *friends.* Neither, can I authorize you to conclude any general arrangement of this nature, without a previous communication of it to me, to be submitted to the consideration of the President."

While occupied with the charge of the Finances, his cares also extended to a subject which properly belonged to the Department of State.

Past events had shown, that, until the American Union should be well established by an efficient and systematic administration, little hope could be indulged of negotiating upon equal terms with the great powers of Europe.

All that Hamilton felt could be done at that time, was,

to make impressions on their cabinets, favorable to the intentions of the American Government; and to wait the effects which an exertion of the powers of the Constitution would produce upon their interests.

With France, no new negotiations had been instituted. The only act of the present Government in relation to her was, the previously mentioned reluctant ratification of the Consular Convention; a measure acquiesced in, as Hamilton observed, "from the difficulty of getting rid of stipulations entered into by our public agents under competent powers, and inconveniently breaking in upon our interior administration, legislative, executive, and judiciary."

No change had taken place in the relations of the United States with Spain, who still insisted upon retaining the exclusive navigation of the Mississippi. The dangers to be apprehended from the enterprises of a youthful and ardent people upon her neighboring possessions, or from the hostility of Great Britain, excited by a recent aggression upon the settlement at Nootka Sound, were not listened to by her monarch, who, though yielding to age and bowed under recent domestic afflictions, was proudly tenacious of empire.

Seeing that the resolution of Hamilton, passed by the last Congress of the Confederation, "that the free navigation of the river Mississippi is a clear and essential right of the United States, and ought to be considered and supported as such," was also a cardinal maxim in the policy of the new government, the Spanish Chargé returned to Europe. Approaches were begun by the American agents at Madrid, but no impression was made.

The discontents, which were felt towards Great Britain, were increased by recent encroachments of the Government of New Brunswick upon the territory of the

United States; and had risen to a point which required the exertion, on the part of the American Cabinet, of the utmost circumspection. There was much solicitude as to the issue of the mission of Morris. The zealous support by Madison, during the late session, of propositions having in view the commencement of a commercial warfare with Great Britain, to countervail her colonial system, at the moment this agent of the Government was endeavoring to open the door of negotiation, were evidence of a determined policy, most unpropitious to the neutral system Hamilton had early advised.

But the despatches from that agent gave no promise of a relaxation on the part of Great Britain. The clamors of the refugees had soured her mind. The value of the new Constitution, as a means of fulfilling our compacts, had not been ascertained. The internal situation of France left nothing to fear from her, as a commercial rival; and, believing that British capital was essential to our commerce, there was little ground to expect any change in her views, until the establishment of public credit should have developed the vast extent of our resources.

Unfortunately, an incident occurred immediately after the arrival of Morris at London, which had an unhappy influence on his proceedings.

The opposition made by Hamilton to the employment of Jefferson on this errand, when proposed by Madison, must have been founded on a just appreciation of the jealousies entertained by England of the influence of France upon the counsels of the United States. Hence, apart from any impressions as to his partialities to that country, the station which Jefferson then held as Minister at the French Court, was alone an insuperable objection to his being employed in this delicate office.

Hamilton's preference of Morris, beside confidence in his brilliant talent, proceeded from the considerations, that he was then a resident of Paris, not in public employment, that thus no eclat would be given to this secret mission, and no unfriendly influence be exerted by the Court of Saint Cloud.

Morris had been on terms of intimacy with La Luzerne, formerly the Minister from France in the United States; and at this time, her representative at London. Before he waited upon the Prime Minister of England, to present his credentials, he disclosed to La Luzerne part of the objects of his visit!* The French Ambassador hastened to the Duke of Leeds, and gave him the first intelligence of this mission.

France, at the time, wished England to believe that she possessed the confidence of the American Government; and the first intimation which the British Cabinet received of these overtures, was from the French Envoy. They complained of this occurrence, and drew the conclusion, that they could expect but little good from negotiations, concerted previously with a nation of which they were so jealous; and, more especially, if conducted by a person so avowedly attached to French politics, as to consult the French Minister, in the first instance, at their threshold.

Intimations unfavorable to the conduct of Morris, but not disclosing this occurrence, were made to the Secretary of the Treasury, by Major Beckworth, of the British service.

Though regarding these hints as of little moment, yet

* Morris to Washington—"Before I saw him I communicated to the French Ambassador, in *confidence*, that you had directed me to call for a performance of the treaty." April 13, 1790.

considering them as intended for the ear of the President, and proper to be known to him, Hamilton communicated them, confining himself to a mere recital of what had passed. The President viewed them in a similar light.

In the first conference with the Duke of Leeds, Morris stated the competency of the recently established Judiciary, to enforce the payment of the debts, as stipulated in the definitive treaty; assured him of the sincere disposition of this Government to be upon good terms; and conveyed its expectations, that England would make compensation for the negroes deported, and would surrender the posts. After a month had elapsed, her minister replied, ascribing the delay of his answer to an impression that Morris had gone to Holland; avowing a determination to retard the execution of such parts of the Treaty as depended entirely upon Great Britain, until redress was granted to her subjects upon specific points of it, or a fair compensation obtained for its non-performance; and expressing "a sincere wish to cultivate a real and bona fide system of friendly intercourse with the United States." *

Morris answered, asking the nature and extent of the redress expected by Great Britain, and conveying his impression, that the declaration of the British Minister's wish to cultivate an amicable intercourse implied "some disinclination to the securing of that intercourse by the force of a treaty." †

In a subsequent interview, Leeds stated that he had been misunderstood, "for that he certainly meant to express a willingness to enter into a Treaty of Commerce." The following day, another interview took place, in the presence of the Prime Minister, highly characteristic of

* Morris to Washington, September 18, 1790.

† Life of Morris, ii. 14.

the parties to it. On this occasion, after general observations as to the fulfilment of the Treaty, in which Pitt expressed the opinion, that "it might be best to consider the subject generally, and to see if, on general grounds, some compensation would not be mutually made," he intimated the idea of forming a new treaty. A warm conversation ensued, which terminated in an inquiry, whether Morris had powers to treat; and, on being informed that he had not, whether the United States would appoint a Minister, if England did? He expressed his belief, that they would. The conversation ended with an assurance, that the Cabinet would consult together, and give the American agent the result of their deliberations.

After a long interval, a conference was held, in which the earnest desire on the part of Great Britain "of a real bona fide connection, not merely by the words of a treaty, but in reality," was again avowed. At a final interview, an intention to send a Minister to the United States was mentioned, and an assurance given, that the ministry had every desire for a treaty; that many Cabinet Councils had been held as to it; and, that a reference had long since been made to a member of the Privy Council, to report upon it.

The despatch which communicated this result, closed with the observation, "The reputation of the United States rises fast; and, though our enemies make objections to the Funding system, yet that step towards the establishment of public credit has produced a sensible effect on those opinions, which no administration will wholly disregard."

A cabinet opinion of Jefferson gives strong evidence of his hostility to Great Britain. He stated to the President, as inferences he drew from the correspondence of Morris, that "the British Court is decided not to surren-

der the posts in any event;"—"that as to indemnification for the negroes, their measures for concealing them were, in the first instance, so efficacious, as to reduce our demand for them, so far, as we can support it by direct proof, to be very small indeed;" and that this would not be an obstacle; "that they equivocate on every proposal of a Treaty of Commerce;" and "do not mean to submit their present advantages in commerce to the risk which might attend a discussion of them, wherein some reciprocity could not fail to be demanded; unless, indeed, we would agree to make it a Treaty of *alliance*, as well as *commerce*, so as to undermine our obligations with France." This method of stripping that rival nation of its alliances, they tried successfully with Holland; endeavored at it with Spain; and have plainly and repeatedly suggested to us"—"that as to their sending a Minister, from divisions in their Cabinet, the issue was uncertain." He thought the agency of Morris should end; and "the propositions for a Treaty of Commerce, or for the exchange of Ministers, should remain dormant, till brought forward earnestly by them." *

It ought not to escape observation, that in the letter previously referred to, addressed by Jefferson to Washington, enclosing extracts from Paine's correspondence with him, avoiding the responsibility of an expression of his own opinion, he quotes that of Paine—thus to influence the mind of the President. "I do not think it is worth while for Congress to appoint any Minister at this Court. * * * It will be all money thrown away to go to any expense about it—*at least during the present reign.*" †

Soon after these overtures were made by Morris, the British Minister apprised the Governor of Canada of what was passing at London. With a view to ascertain the

* Jefferson's Works, vii. 547; Congress edition.

† Jefferson's Works, Randolph, ii. 465.

dispositions of the United States, in case of a war with Spain, which a recent descent upon the coast of one of her American possessions rendered probable, Lord Dorchester sent an agent to Philadelphia. Major Beckwith was intrusted with this commission, with whom Hamilton was directed by the President to hold a conference.

It took place on the eighth of July. The British officer, after referring to the correspondence with Morris, mentioned, that he was directed to state the belief of the Governor of Canada, that their Cabinet entertained a disposition, not only towards a friendly intercourse, but towards an alliance with the United States. Adverting to the cause of the expected rupture with Spain, as one in which commercial nations would favor the views of Great Britain, he stated, that, it was presumed, if it should occur, they would find it to be their interest to take part with them, rather than with Spain. Expressions of regret at some recent depredations of Indians on our Western frontier followed, with assurances, that an effort had been made to prevent them. In confirmation of these observations, a letter was produced, signed "Dorchester," containing the same ideas, but expressed in more guarded terms.

Hamilton observed, "that this letter seemed to speak only his sentiments." It was replied, "that his Lordship knew too well the consequences of such a step to have taken it without a previous knowledge of the intentions of the Cabinet."

The communication being repeated to the President, a second interview was held. Hamilton then stated, "as to what regards the objects of a general nature, mentioned by you, though your authority for the purpose from Lord Dorchester is out of the question; and though I presume from his Lordship's station and character, and the knowl-

edge he appears to have of what is passing with regard to Mr. Morris, that the step he has taken is conformable to the views of your Cabinet; yet you are, no doubt, sensible, that the business presents itself in a shape which does not give the proper authenticity to that fact, and is wholly without formality. You must also be sensible, that there is a material difference between your situation, and that of Mr. Morris. His credentials, though not formal, proceed from the proper source. Yours are neither formal nor authoritative. This state of things will, of course, operate in what I am going to say on the subject. As to what relates to friendship between Great Britain and the United States, I conceive myself warranted in declaring, that there is, in the Government of this country, a sincere disposition to concur in obviating, with candor and fairness, all ground of misunderstanding which may now exist in reference to the execution of the late Treaty of Peace; and in laying the foundation of future good understanding, by establishing liberal terms of commercial intercourse. As to alliance, this opens a wide field. The thing is susceptible of a vast variety of forms. 'Tis not possible to judge what would be proper, or what could be done, unless points were brought into view. If you are in condition to mention particulars, it may afford better ground of conversation. I stopped here for an answer.

"Major Beckwith replied, that he could say nothing more precise than he had already done.

"That being the case, I can only say, that the thing is in too general a form to admit of a judgment of what may be eventually admissible or practicable. If the subject shall hereafter present itself to discussion in an authentic and proper shape, I have no doubt, we shall be ready to converse freely upon it; and you will naturally conclude

that we shall be disposed to pursue, whatever shall appear under all circumstances to be our interest, as far as may consist with our honor. At present, I would not mean either to raise or repress expectation.

"Major Beckwith seemed to admit, that as things were circumstanced, nothing explicit could be expected; and went on to make some observations, which, I understood, as having for object to sound whether there existed any connection between Spain and us; and whether, the questions with regard to the Mississippi were settled.

"Perceiving this, I thought it better, in a matter which was no secret, to avoid an appearance of mystery, and to declare without hesitation, as I did, that there was no particular connection between Spain and the United States within my knowledge; and that it was matter of public notoriety, that the questions alluded to were still unadjusted.

"The rest of our conversation consisted chiefly of assurances on my part, that the menaces which had been mentioned by him as having been thrown out by some individuals with regard to the Western Posts, were unauthorized; proceeding, probably, from a degree of irritation which the detention of the Posts had produced in the minds of many; and of a repetition on his part of the assurances which he had before given of Lord Dorchester's disposition to discourage Indian outrages. Something was said respecting the probable course of military operations, in case of a war between Britain and Spain, which Major Beckwith supposed would be directed towards South America; alleging, however, that this was mere conjecture on his part. I hinted cautiously our dislike of any enterprise on New Orleans."

With regard to these interviews, Hamilton made this minute at the time. "Jefferson was privy to the transac-

tion. The views of the Government were, to discard suspicion that any engagements with Spain, or intentions hostile to Great Britain existed; to leave the ground, in other respects, vague and open; so as, that, in case of rupture between Great Britain and Spain, the United States might be in the best situation to turn it to account, in reference to the disputes between them and Great Britain on the one hand, and Spain on the other."

It was highly important to determine what policy the administration ought to adopt in the contingency of an enterprise from Canada to Louisiana—an expedition much to be apprehended, from "the consequences of having so formidable and enterprising a people on both our flanks and rear, with their Navy in front; as a mean of seducing the Western settlements from their allegiance, thus affecting the security of the Union, and commanding the commerce of the United States with the West Indies."

The probability of a request, by the British Government, of permission to march troops through the territory of the United States from Canada to Louisiana, led to a call for the views of the Heads of the Departments, as to the course to be pursued in case of such request.* Jefferson declared, that, "if Louisiana and the Floridas, were to be added to the British Empire, the United States ought to become parties in the general war that was expected, should this be the only means of preventing the calamity,"

* It appears from the following note to the President, that in the commencement of the Government, he also called upon the Vice President for his advice. This was soon discontinued. John Adams to Washington, August, 1790. "To the superior lights and information derived from office, the more serene temper and profound judgment of the President of the U. S., these crude and hasty thoughts, concerning the points proposed, are humbly submitted with every sentiment of respect and sincere attachment." Hamilton's Works, iv. 35, 46. Sept. 10, 1790.

but that he was "for preserving neutrality as long, and entering into the war as late, as possible. If leave were granted to Great Britain, a similar leave to Spain, would take away any just cause of complaint." With this view, he advised, that an answer should be avoided. "If they pass without having asked leave," he observed, "I should be for pressing our dissatisfaction to the British Court, and *keeping alive an altercation on the subject*, till events should decide whether it is most expedient to accept their apologies, or profit of the aggression as a cause of war." *

A full investigation was made by Hamilton, of the right and expediency of a refusal or consent to such passage. He stated, if determined on principle, there could be no hesitation as to the right to refuse; and were they in a situation to do it without material hazard, he thought, "there were strong inducements to establish it as a general rule, never to grant a passage for a voluntary expedition of one power against another, unless obliged to it by treaty."

But this document is chiefly valuable, as being his first and most comprehensive cabinet opinion on the Foreign Relations of this country—an exposition the more important, as tending to impart to the President his large views of the policy to be adopted; and thus anticipating and defeating the attempts, which Hamilton saw would be made, to enlist him on the side of France.

After examining their claims on the gratitude of this country, he observed, "it is not to be doubted, that the part which the Courts of France and Spain took in our quarrel with Great Britain, is to be attributed, not to an attachment to our Independence and Liberty, but to a

* Jefferson's Works, Cong. ed., vii. 509.

desire of diminishing the power of Great Britain, by severing the British Empire."

"It is manifest," he said, "that a Government scarcely ever had stronger motives to avoid war than that of the United States, at the present juncture. They have much to dread from war—much to expect from peace—something to hope from negotiation, in case of a rupture between Britain and Spain. We are but just recovering from the effects of a long, arduous, and exhausting conflict. The people but just begin to realize the sweets of repose. We are vulnerable by water and land, without either fleet or army. We have a considerable debt in proportion to the resources which the state of things permits the Government to command. Measures have been recently entered upon for the restoration of credit, which a war could hardly fail to disconcert; and which, if disturbed, would be fatal to the means of prosecuting it. Our National Government is in its infancy.

"The habits and dispositions of our people are ill-suited to those liberal contributions to the Treasury, which a war would necessarily exact. There are causes which render war in this country more expensive, and, consequently, more difficult to be carried on than in any other. There is a general disinclination to it in all classes. The theories of the speculative, and the feelings of all, are opposed to it. The support of public opinion (perhaps more essential to our Government than to any other) could only be looked for in a war evidently resulting from necessity."

As, in case of war, France was the only weight which would be thrown into the scale, he considered the probability of her co-operation, and the extent of the aid she could afford, in the then unsettled condition of her affairs.

"It is possible," he said, "that the enthusiasm which the transition from slavery to liberty may inspire, may be a substitute for the energy of a good administration, and the spring of great exertions. But the ebullitions of enthusiasm must ever be a precarious reliance; and it is quite possible, that the greatness, and, perhaps, immaturity of that transition may prolong licentiousness and disorder. Calculations of what may happen in France must be unusually fallible, not merely from the yet unsettled state of things in that kingdom; but, from the extreme violence of the change which has been wrought in their condition. These considerations are additional admonitions to avoid, as far as possible, any step that may embroil us with Great Britain. It seems evidently our true policy to cultivate neutrality. This, at least, is the ground on which we ought to stand until we can see more of the scene, and can have secured the means of changing it with advantage. We have objects which, in such a conjuncture, are not to be neglected. The Western posts on one side, and the navigation of the Mississippi on the other, call for a vigilant attention to what is going on. They are both of importance. The securing of the latter may be regarded, in its consequences, as ESSENTIAL TO THE UNITY OF THE EMPIRE. Though it may be uncertain how long we shall be permitted to preserve our neutrality, that is not a sufficient reason for departing from it, voluntarily. It is possible, we may be permitted to preserve it throughout; and, if we must renounce it, it is better it should be from necessity than choice; at least, till we see a prospect of renouncing with safety and profit.

"If the Government is forced into a war, the cheerful support of the people may be counted upon. If it brings it upon itself, it will have to struggle with their displeasure and reluctance. The difference alone is immense."

This view was sustained by the prevailing opinion in the country, that it is "our true policy to steer as clear as possible of all foreign connections other than commercial; and, in this respect, to cultivate intercourse with all the world, on the BROADEST BASIS OF RECIPROCAL PRIVILEGES."

"An attentive consideration," he next observed, "of the vicissitudes which have attended the friendship of nations, except in a very few instances, from very peculiar circumstances, gives little countenance to systems which proceed on the supposition of a permanent interest to prefer a particular connection. The position of the United States, detached as they are from Europe, admonishes them to unusual circumspection on that point. The same position, as far as it has relation to the possessions of European powers in their vicinity, strengthens the admonition.

"Let it be supposed, that Spain retains her possessions on our right, and persists in the policy she has hitherto pursued, without the slightest system of relaxation, of barring the Mississippi against us—where must this end, and at a period not very distant? Infallibly, in a war with Spain, or separation of the Western country. This country must have an outlet for its commodities. This is essential to its prosperity, and if not produced to it by the United States, must be had, at the expense of the connection with them.

"A war with Spain, when our affairs will have acquired greater consistency and order, will certainly be to be preferred to such an alternative. In an event of this sort, we should naturally seek aid from Great Britain. This would probably involve France, on the opposite side, and effect a revolution in the state of our foreign politics.

"In regard to the possessions of Great Britain on our left, it is, at least, problematical, whether the acquisition of them will ever be desirable to the United States. It is certain, that they are in no shape essential to our prosperity. Except, therefore, the detention of the Western posts (an object, too, of far less consequence than the navigation of the Mississippi), there appears no necessary source of future collision with that power."

These considerations led him to this result: "The acquisition," he said, "of the Spanish territories bordering upon the United States, by Britain, would be dangerous to us, and, if there were a good prospect that our refusal would prevent it, without exposing us to a greater evil, we ought to refuse. But if there be a considerable probability, that our refusal would be ineffectual; and if being so, it would involve us in war or disgrace; and if positive disgrace is worse than war, and war, in our present situation, worse than the chances of the evils which may befall us from that acquisition, then the conclusion would be, that we ought not to refuse. And this appears to be the true conclusion to be drawn from a comprehensive and accurate view of the subject, though first impressions are on the other side."—"The acquisition, if made, may, in the progress of things, be wrested from its possessors."—"War will necessarily have added millions to the debt of Britain, while we shall be recruiting and increasing our resources and our strength. In such a situation, she will have motives of no inconsiderable force for not provoking our resentment. And a reasonable confidence ought to be reposed in the fidelity of the inhabitants of the Western country; in their attachment to the Union; in their real interest to remain a part of it; and in their sense of danger from the attempt to separate, which, *at every hazard*, ought to be resisted by the United States."

He disapproves the proposition of Jefferson, to waive an answer. "An evasive conduct," he observed, "in similar cases, is never dignified—seldom politic. It would be likely to give satisfaction to neither party—to effect no good—to prevent no ill. By Great Britain, it would probably be considered as equivalent to a refusal—as amounting to connivance by Spain—as an indication of timidity, by all the world."—"The true alternative seems to be to refuse, or consent."

But if an attempt should be made by Great Britain, without asking leave, to force a passage, he pronounced a war as the only alternative, "or absolute and unqualified humiliation." "In every event," he says, "it would appear advisable immediately to convene the Legislature; to make a formal demand of satisfaction; to commence negotiations for alliances; and, if satisfaction should be refused, to endeavor to punish the aggressor by the sword."

In the then situation of the United States—the infancy of the Union; its weakness, and future strength, this advice has every mark of prudent wisdom, solicitous for the preservation of its honor and its peace.

This important opinion, of which this is a very brief abstract, was transmitted to the President, with this observation: "The judgments formed in particular cases, are almost always connected with a general train of ideas, in respect to some more comprehensive principles or relations; and I have thought it advisable, to lay that train before you, for the better explanation of the grounds of the opinions I now give, or may hereafter have occasion to give, on the like subjects, in obedience to your commands."

"I feel myself," Washington replied, "greatly obliged by the full and able consideration you have given the subject. From present appearances, however, it does not

seem as if there would be occasion for any decision on either point, which gave birth to my question."

The digest of the Revenue system; of a plan for the Loan Offices; for the conduct of the agents of the Sinking fund; of arrangements for negotiating the Foreign loans; and the preparation of this elaborate view of the policy of the United States, with respect to other nations; formed but a small part of Hamilton's occupations at this time.

It has been stated that Congress adjourned in August. Between that period and its next meeting, besides an extensive correspondence, he prepared a system of "Regulations for the payment of pensions." He submitted to the President, preparatory to the approaching session, a "Report on the Post Office," and a "Report on a National Bank,"* which were followed in a few days, by his "Report upon the Mint."† He also, at this time, gave an important opinion as to the construction of the recent Impost act; in relation to which as being a matter of consequence to the Whale fishery, he asked a conference with Goodhue, a Senator from Massachusetts. Reluctant as he was, thus to interfere, he arrested the allowance of bounty as being in conformity with the motive of the law. "In a circumstance, in which the equity was palpable, and the law doubtful, I thought it my duty, as an executive officer of the Government, not to let the public money be parted with in a mere point of construction, till that construction should be judicially established."

These results, in such a variety of the most important subjects, which could not be accomplished without much detailed investigation, are not a little remarkable.

His "Report on the Post Office" was founded on a letter to him from the Postmaster General, stating the

* December 13. † January 26, 1791.

operations of that branch of the public service, during the past year. When communicating this Report to the President, Hamilton took this occasion to state a guiding principle in the conduct of the Chief Magistrate. "From the circumstances of the case," he observed, "and a general impression, that it is always best for the Chief Magistrate to be as little implicated as possible in the specific approbation of a particular measure, proceeding from a particular officer; I believe it may be advisable to answer, generally, that the President sees with pleasure the improvements made in the contracts for conveying the mail. That he doubts not, a judicious discretion has been exercised in relation to the several parts of them; that (especially where circumstances vary) there does not appear to be a strict obligation to prefer the lowest offer; and that, in the case of the greater frequency of the transmission of the mail, the concentration of the business under one direction, and the experience of past good conduct, are weighty reasons for the preference of his offer meditated by the Postmaster General."

A few days after Hamilton had transmitted to the President his opinion as to the anticipated application of Lord Dorchester; he wrote him, in order to dispel all uneasiness in his mind, giving him intelligence of the probability of a reconciliation between Spain and Great Britain.

The answer of Washington has been quoted. In a subsequent letter, the President observed, "We are approaching the first Monday in December, by hasty strides. I pray you, therefore, to revolve in your mind, not only such matters (if there be any) as may be proper for me to lay before Congress in your own department; but such others of a general nature, as may happen to occur to you; that I may be prepared to open the Session

with such communications as shall appear to merit attention." Hamilton replied, giving intelligence from England, recently received, of a warlike aspect; and enclosing the copy of a decree of the National Assembly of France, having in view a treaty with Spain; directing an augmentation of her squadrons, and indicating an intention eventually to support Spain in the expected controversy. He added—"The object suggested in your letter, as preparatory to the meeting of the Legislature, shall engage my particular attention. The papers of the State, and Treasury, and of the Commissioners for settling the accounts, are on their way to Philadelphia. On the twentieth (of October) I propose, with my family, to set out for the same place."

CHAPTER LXIII.

Ten years had now elapsed, since Hamilton, at the gloomiest moment of the Revolution, with all the dangers of the country before him, addressed his celebrated letter to Duane, giving the outlines of a General Government, and indicating the means, by which the people of these United States might become, in effect, one nation.

Not more than ten years had gone by, since, dismayed by the successes of the enemy, a proposition was offered in the Congress of the Confederation—to conclude a treaty with Great Britain, which would have dismembered this empire; and have surrendered at discretion the States of South Carolina and Georgia.

At the close of that cycle, how different the scene! Peace conquered—Independence acknowledged. A domestic insurrection suppressed. The wild licentiousness of a jarring and unequal league at an end—and the extraordinary spectacle exhibited, full of hope to the world, of a deliberately formed Free Government—founded upon the sacrifice of mutual jealousies, and the concession of mutual interests—sanctioned by the deliberate voice of a people of various origin, widely dispersed, and having little in common with each other but the same language, and the recollection of their common sufferings and common efforts.

It is among the interesting incidents of this period, that,

chiefly through the exertions of the man who had so large a share with others in effecting these great results, that government was now successfully commenced; and, among its first acts, had redeemed the pledges to the Public Faith.

With feelings inspired by a consideration of these auspicious circumstances, Hamilton drew an outline of the speech to be delivered to Congress, at the opening of its third session.*

"In meeting you again," the President observed, "I feel much satisfaction in being able to repeat my congratulations on the favorable prospects which continue to distinguish our public affairs. The abundant fruits of another year have blessed our country with plenty, and with the means of a flourishing commerce. The progress of public credit is witnessed by a considerable rise of American Stocks abroad, as well as at home; and the revenues allotted for this and other national purposes have been productive beyond the calculations by which they were regulated. This latter circumstance is the more pleasing, as it is not only a proof of the fertility of our resources, but as it assures us of a further increase of the national respectability and credit; and let me add, as it bears an honorable testimony to the patriotism and integrity of the mercantile and marine part of our citizens. The punctuality of the former in discharging their engagements has been exemplary."

After mentioning the completion of a loan, provisionally made, in conformity to the powers vested in him, as to which he said, "the celerity with which it had been filled, and the nature of the terms, gave a reasonable hope that the further execution of those powers may proceed with advantage and success," he stated the application of

* Heads of Topics. Hamilton's Works, iv. 83.

Kentucky to become a member of the Union. The measures taken to reduce a party of Indian banditti on the borders of the Ohio are next referred to; and the attention of Congress is directed in these terms to that great object, the PROTECTION OF THE INDUSTRY OF THE COUNTRY: "The disturbed situation of Europe, and particularly the critical posture of the great maritime powers, whilst it ought to make us the more thankful for the general peace and security enjoyed by the United States, reminds us, at the same time, of the circumspection with which it becomes us to preserve these blessings. It requires, also, that we should not overlook the tendency of a war, and even of preparations for a war, among the nations most concerned in active commerce with this country, to abridge the means, and thereby at least enhance the price of transporting its valuable productions to their proper markets. I recommend it to your serious reflections, how far, and in what mode, it may be expedient to guard against embarrassments from these contingencies, by such encouragements to our own navigation, as will render our commerce and agriculture less dependent on Foreign bottoms; which may fail us in the very moments most interesting to both of these great objects."

The relief and protection of the Mediterranean trade are advised; and Congress are called upon "to consider in their wisdom, whether improvements in the Judiciary system may yet be made." A regulation of the consulates is suggested, and the establishment of a Militia, of a Mint, of Standards of Weights and Measures; and of the Post Office and post routes, are again recommended.

After alluding to the sufficiency of the revenues, as leaving no doubt that the residuary provisions will be commensurate to the other objects for which the public faith is pledged, it is observed, "allow me, moreover, to

hope, that it will be a favorite policy with you, not merely to secure the payment of the interest of the Debt funded; but as far and fast as the growing resources of the country will permit, to exonerate it of the principal itself." This admonition closed the speech: "It will be happy for us both, and our best reward, if, by a successful administration of our respective trusts, we can make the established Government more and more instrumental in promoting the good of our fellow citizens; and more and more the object of their attachment."

The address of the Senate, reported by Ellsworth, and that of the House by Madison, after expressing warm satisfaction at the "auspicious prospects" of the country, the "rise of public credit," "the fertility of the national resources," "the patriotism and probity of the mercantile and marine part of the community," gave full assurances of co-operation, in promoting the several objects indicated in the speech.

The clause respecting Indian affairs elicited a few animated remarks from Jackson, on the terms of a treaty, recently concluded with the Creeks, affecting the territorial claims of Georgia;* in the course of which, he gave notice of his intention to make it a subject of future discussion. This, and a proposed amendment to that part of the address which related to the encouragement of American navigation, were the only points raised in the House; and gave no public indications that a determined party had already been formed in Congress against the administration.

The organization of the Militia first engaged the attention of the House of Representatives. This subject

* This Treaty was effected with great difficulty. The Creek chiefs had been induced to visit New York. The Legislature of Georgia vehemently denounced it.

had been referred to a committee, during its first session; but was not acted upon. At the ensuing Session, a plan prepared by General Knox, the Secretary of War, and modified by the President, was reported to Congress. By this plan, all persons of legal military age were distributed into three separate corps, according to their ages; the whole to be divided into legions. Of these, the advanced corps, composed of persons under twenty-one years, were to be completely armed and equipped; and were to be encamped for a stated period of every year in annual camps of discipline. The main and reserved corps were to be formed of those who had reached manhood; and were to be replenished by rotation from the advanced corps, and to be exercised, a few days, in each year. By these means, it was supposed, that an energetic National Militia would be formed; and the necessity of a large standing army obviated. A distribution was also contemplated of all the actual mariners of the United States, into two classes; the first of which were to be responsible to serve three years on board of some public armed vessel, receiving therefor the customary wages.

The disastrous issue of a recent conflict with the Indians, near the Wabash, which was chiefly to be imputed to the misconduct of the militia, was announced to the Government, and led to an effort to introduce some general system of defence.

The imperfect report which exists of the debates does not permit a full or very accurate statement of the points discussed. They related to the questions, whether the militia should provide themselves with arms, or be armed by the United States; whether all the citizens of military age should be subject to duty; or an active militia should be formed by draft; the nature and extent of the exemptions from enrolment; and, whether the inspectors pro-

posed by the bill, should be appointed by the States, or by the President.

In the course of this discussion, propositions were made, some of which may be supposed to have had reference to popular effect. Of this character, was that of Madison, concurred in by Giles; that the members of Congress should not be exempt during the recess, for the reason, "that the rulers should sympathize with the ruled in all public burthens." Another, was from the same source, granting a gratuitous exemption to those conscientiously scrupulous of bearing arms. Both of these, after a feeble opposition, were abandoned by their mover.

The decision of the question, whether Inspectors should be appointed by, and if so appointed, whether their commissions should proceed from the President, involved considerations of great magnitude. The bill, as originally framed, contemplated an Inspector for each State, who was to act under the direct authority of the President; and whose principal duty was, to superintend their organization, arming, and discipline. By relinquishing this supervisory power, one great object of the Constitution was defeated; it being not only the purpose of that instrument, to give to the General Government a well organized force for the public exigencies; but, by an equal state of discipline, to maintain a relative equality in the military strength of the different parts of the Union. This only can be done by investing the National Government with a superintending control. When left with the States, it remains in their discretion to decide on the degree of discipline to be maintained; and thus, by a concert between particular States, a predominating military force can be created. Another consequence was to be apprehended. This power continued in the States,

unless exerted by the whole Union. The exertion by the States must be inefficient, and, eventually, the militia would become a nominal force. Hence, in periods of danger, the Union would be compelled to resort to a standing army, which would be without an efficient check. After much discussion, this bill was recommitted to Wadsworth,* Giles, and Tucker, by whom a new bill was reported, but which, owing to the great diversity of opinion as to its principles, did not become a law.

A REPORT from the Secretary of the Treasury, made in pursuance of an order of the previous session, proposing such further provision, as he deemed necessary, "for ESTABLISHING the PUBLIC CREDIT," was the next subject of deliberation. This was submitted to the House on the thirteenth of December; and was followed, on the succeeding day, as part of the system, by his REPORT containing the PLAN of a NATIONAL BANK. Having directed, that a copy of the Report on the Bank should be sent to the Senate, the House considered the proposed measures in aid of the public credit.

A series of Resolutions being adopted, in conformity with the propositions in the Report, they were referred to a committee to frame a bill corresponding with them. Meanwhile the Report, previously made by Hamilton, containing his "Plan for the disposal of the Public Lands," was discussed.

The leading principles of his plan were approved. After a discussion as to the extent of the sales to be made at the General Land Office; as to the propriety of convenient locations for actual settlers; and, as to the policy of fixing an established price, a bill passed the House, at

* In a letter from Wadsworth to Hamilton, the former observed: "The time draws near when Congress meet. I shall be called upon for a Militia bill. You know who I expect it from." December 17th, 1790.

a late period of the session, but was not acted upon by the Senate.

Another subject of much moment was brought before the House. The health of Washington had been seriously impaired; and a return of indisposition, during the previous session, placed his life in jeopardy. He was convalescent; and it was now proper to carry into effect the provisions of the Constitution, which authorized Congress to declare, what officer should, in case of a vacancy in the offices of President and Vice-President, act as President; and which empowered them, to determine the time when the electors of those officers should be chosen, and the day they should give in their votes.

A Committee, of which Benson was chairman, had been appointed on this subject. Its views were incorporated in three bills. The first of these was at this time considered. The debate commenced on a proposition, that "the Secretary of State" should fill the vacancy. By some of the members, the President of the Senate pro tempore, was preferred. By others, the Speaker of the House of Representatives. There were those among the confidential friends of Hamilton, who would have designated the Chief Justice of the Supreme Court of the United States—a selection suggested by his independent station. The great diversity of opinion which appeared on this point, rendered the enactment of any law improbable; and, after a discussion of two days, the bill was postponed.

The zeal evinced to designate the "Secretary of State," notwithstanding the objection of selecting as the successor to the Executive Magistrate, an officer dependent upon him for his continuance in office, did not escape observation, as indicative of Jefferson's ultimate views. A desire, that the same Congress which had acted

upon the Funding system, should carry into effect the remaining propositions of the Secretary of the Treasury for the support of the public credit, had, probably, also an influence in inducing the postponement of this subject.

A Report of that officer, suggesting the future provision necessary to pay the interest, which would accrue after the year seventeen hundred and ninety-one, on the assumed debt, showed that the amount to be provided, a little exceeded eight hundred thousand dollars. To meet this demand, Hamilton stated, that his reflections had suggested nothing "so eligible and unexceptionable as a further duty on foreign distilled spirits, and a duty on spirits distilled within the United States;" to be collected, according to a plan previously delineated by him. Under this impression, he proposed an increased duty on imported distilled spirits, according to the class of proofs; an increased duty on the different classes of spirits distilled within the United States, discriminating between those distilled from materials of foreign and domestic growth; and a duty on each still, of sixty cents per gallon, exempting such within a certain defined dimension, "as are used essentially for the domestic purposes of their respective proprietors." The anticipated product of these duties, he supposed, would exceed the sum required to meet the interest on the assumed debt, by fifty thousand dollars; which excess, he suggested, "might be beneficially applied towards increasing the Sinking fund."

The renewal of this proposition in the same form in which it was before submitted, he states, to have proceeded "from a belief, that collateral considerations, which were afterwards obviated, rather than objections to the measure itself, prevented its adoption during the

last session; and, from the impracticability which he conceived to exist of devising any substitute, equally conducive to the ease and interest of the community; and, from an opinion, that the extension of the plan of collection contemplated by his report, to the duties already imposed on wines and distilled spirits, was necessary to a well grounded reliance on their efficiency and productiveness."

The expediency of taking a strong hold of this source of revenue having been discussed in a former report; the only point about which he supposed any question could arise, was, the "mode of collection." This, he observed, must proceed on the principle either of making the "Security of the Revenue to depend chiefly on the *vigilance* of the *Public Officers*," or, "on the integrity of the *individuals* interested to avoid the payment of it." The latter, which had prevailed throughout the United States, he rejected on various grounds, as affecting the success of the measure, and the morals of the community.

He next portrayed the features of this plan, which, in the clamor excited from the application to it of an odious epithet,* seem to have been wholly overlooked. "It may not be improper to remark," he observed, "that the two great objections to the class of duties denominated 'Excises,' are inapplicable to the plan suggested. The objections are, the summary jurisdiction confided to the officers of Excise, in derogation of the Common Law, and of the right of trial by jury, and the general power vested in the same officers, of *visiting* and searching indiscriminately the houses, stores, and other buildings of the dealers in excised articles. But, by the plan proposed, the officers to be employed are to be clothed with *no such summary* jurisdiction; and their *discretionary* power

* An "Excise."

of visiting and *searching, is to be restricted to those places which the dealers themselves shall designate* by public insignia, or marks, as the depositories of the articles upon which the duties are to be laid. Duties of the kind proposed," he remarks, "are not novel in the United States; they have existed to a considerable extent under several of the State Governments, particularly in Massachusetts, Connecticut and Pennsylvania. In Connecticut, a State exemplary for its attachment to popular principles, not only all ardent spirits, but foreign articles of consumption generally, have been the subjects of an Excise, or inland duty." The next point examined in reference to the debates which took place when this subject was previously under discussion—was, its comparative advantages with those of a land tax.

Independent of the much greater expense in collecting the latter tax; and of the fact, that real estate is usually charged with an undue share of the public burthens; he observed, "that it is desirable, if practicable, to reserve the latter fund, for objects and occasions which will more immediately interest the sensibility of the whole community; and more directly affect the public safety. It will be a consolatory reflection," he remarks, "that so capital a resource remains untouched by that provision, which, while it will have a very material influence on public credit, will also be conducive to the tranquillity of the public mind, in respect to external danger; and will really operate as a powerful guarantee of peace."

"In order to be at liberty to pursue this salutary course, it is indispensable, that an efficacious use should be made of those articles of consumption, which are the most proper and most productive, to which class distilled spirits evidently belong; and a prudent energy will be requisite,

as well in relation to the mode of collection, as to the quantum of the duty."

In reply to a proposed increase of the duties on Imports, in preference to an Excise, after stating, that to extend them further, would be to contravene the sense of the body of the merchants, a circumstance which, as a general rule, ought not to conclude against the expediency of a public measure; yet, when due regard is had to the disposition which that enlightened class of citizens has manifested towards the National Government—to the alacrity with which they have hitherto seconded its operations—to the accommodating temper with which they look forward to these additional impositions on the objects of trade, which are to commence with the ensuing year, there will be perceived to exist, the most solid reasons against lightly passing the bounds, which coincide with their impression of what is reasonable and proper. It would be, in every view, inauspicious to give occasion for a supposition, that trade alone is destined to feel the immediate weight of the hands of Government, in every new emergency of the Treasury." "To carry the duties to a height disproportionate to the mercantile capital, would be to distress trade, to divert capital from the exigencies of business; and, to impose on merchants sacrifices, so as to enable them to make the requisite advances for duties, payable before the receipt from the sale of the articles on which they are charged."

A serious apprehension is also expressed, of the injury to public credit, which would result from an attempt to draw all the supplies from one source, implying a defect of other means, or an inability to command them. "A diversification of the nature of the funds is also desirable," from the less dependence that can be placed "on one

species of fund, and that too liable to the vicissitudes of the continuance or interruption of foreign intercourse; than upon a variety of different funds formed by the union of internal with external objects. The inference from these various and important considerations seems to be, that the attempt to extract wholly from duties on imported articles, the sum necessary to a complete provision for the public debt, would probably be both deceptive, and pernicious; incompatible with the interests, not less of revenue than of commerce; that resources of a different kind must of necessity be employed; and, *that the selection* of the most *fit objects*, is the *only thing which ought to occupy inquiry*." He adds, "That besides the establishment of supplementary funds, it is requisite to the support of public credit, that those established should stand on a footing, which will give all reasonable assurance of their effectual collection."

With this view, he proposed to extend the credit on Wines, and to permit the importers of Teas, in addition to the alternatives previously granted to them, to give bonds without security, in each case, payable in two years, on condition that the Teas should be *warehoused*, and delivered by permits from the officers of the Revenue, granted upon specified terms.

An Act, prepared by the Secretary of the Treasury, to carry into effect the objects of this Report, was considered on the fifth of January. The opposition to this measure was commenced by the same member, who had opened the attack on the Funding bill, which, he again reprobated; and "an excise, in particular, as an auxiliary to it."

After dwelling with much detail on its operation in the Southern States, where, Jackson said, no alternative could be adopted to diminish the weight of this tax; which

would "deprive the mass of the people of almost the only luxury they enjoy, that of distilled spirits;" he declaimed, with great vehemence, on the injustice, the inequality, the oppression of the proposed measure; and referred to the recent hostility of three of those States, as manifested by their Legislatures. Similar repugnance was shown by Parker, of Virginia, who attempted to prove that the additional sum contemplated to be raised by it was unnecessary. He also controverted its policy, on the ground, that it would rather diminish than increase the revenue, by inducing an illicit commerce. After a few observations from Stone, who admitted the necessity of an increased revenue, but deprecated the mode by which it was to be obtained—a vote to strike out the enacting clause was negatived by a large majority.

A REPORT, from the Secretary of the Treasury, was presented on the following day, showing the amount of the estimate for the services of the current year; and another, exhibiting the proceeds of the duties from the commencement of the operation of the Impost Act, until the thirtieth of September, seventeen hundred and ninety, the end of the fiscal year—as far as returns had been received; statements which could leave no doubt of the necessity of a further augmentation of the revenue. The previous sections of this bill having been approved, the discussion was resumed on a motion to expunge the "twelfth," which specified the rates of duty, in order, to admit the substitution of a duty on molasses, which, Tucker observed, would answer every purpose. In reference to this proposition, Madison remarked, "that he had felt the force of the objections which had been urged against the bill. He was, in general, principled against excises, but, of all excises, that on ardent spirits he considered the least objectionable. The question now to be

determined was: Is an addition to the present amount of the revenue necessary? It had appeared that an addition is necessary. For his own part, he should prefer direct taxation to any excise whatever; but he conceived this would be contrary to the sentiments of a majority of the people of the United States; and he was fully convinced that it was contrary to the opinion of a great majority of the House. If any mode could be adopted, without having recourse to excises, he would be the last that should give them his support; but he conceived there was none, and the plan proposed was divested of the most exceptionable provision usually connected with an excise system." *

The floor was then taken by Jackson. His observations were little more than a repetition of those he had before made, merely adding the remark, that he doubted not, other resources of revenue might be explored, which would be more palatable—a tax on salaries, pensions and lawyers, in which particulars, he expressed a wish, "that the example of Great Britain might be followed."

These remarks, were met by a general reply from Lawrence, in which, after adverting to the fact that, by the Funding Act, the debts of the particular States were assumed; he indicated, as an obvious consequence, that they could not, without dishonor, omit to make the necessary provision to pay them. As to direct taxation, he inquired, on what principle would the objectors to the proposed duty adopt it? Would they consent to make the representation of their States, the rule of apportionment? As to the proposed mode of collection, he insisted,

* Madison to Jefferson, February 13, 1791—"The *optional* clause, permitting the owners of stills to pay either the tax on the size of the still, or on the quantity actually distilled, will pretty certainly remain a part of the bill, and is *an answer to the most popular objection to it.*"

that an efficient collection would only bear hard upon the dishonest; and alleged, that from the experience of other States, where this system had long prevailed, it required only time to accustom to it those who now regard it with dislike. This probability was controverted by Steele, of North Carolina, who instanced, as preferable sources of revenue, "duties on inland navigation, on law proceedings, and on legal conveyances," the latter of which, obviously, could not have been collected except by a Stamp Act.

The measure was principally sustained by Livermore, Sedgwick, and Smith of South Carolina. The objections were stated to proceed chiefly from the word, "Excise;" which, as usually collected, had operated unequally; taxing the poor who were obliged to purchase in small quantities, while the rich, in a great degree, escaped; but such a consequence had been effectually avoided by the present bill; which rendered the burthen equal, the duty being to be paid by the importer of foreign spirits; and, at the still-head, on domestic spirits. In those States, where the excise had long existed, and in an objectionable form, no objections had been raised. The clamor was from States where the system was unknown, and was the result of mere apprehension. In framing the present bill, great attention had been paid to divest it of those qualities, which, in other countries, rendered taxation by excise justly obnoxious. "If no deficiency of revenue existed, his disposition to support the bill," Sedgwick observed, "would be the same, for he had never believed that a public debt was a public benefit. Of all the subjects of revenue, within the power of Congress, none was so proper as the duty on ardent spirits. Of the four classes for taxation—an impost; a tax on internal negotiations; direct taxes, and excises—

the first had been extended as far as was dictated by sound policy. The tax on internal negotiations, which could not be carried to any considerable extent, without the intervention of stamps, was subject to the objections to the present bill; and much more opposed by public opinion. Direct taxes were still more objectionable, on that account. They were of all, the most unequal; and, in this country, the most oppressive, and expensive in collection. The most unequal, whether charged upon capital or income; for the ability to pay is not in proportion to either, but to the excess of income beyond the wants of the party taxed; oppressive, because of the unequal distribution of a circulating medium; and expensive, from the extent of the settlements compared with the number of the settlers. But an Excise, being an insensible mode of taxation, would yield a greater revenue than any direct imposition."

The opposition were called upon to offer a substitute, but none was offered; and the objection of North Carolina was answered by the assertion, that this was the only effective resource at the command of the General Government. The Constitution authorized it, and North Carolina knew this, when she adopted the Constitution; and had expressed a like hostility to direct taxation, as to an Excise.

"In the *necessity* and *expediency* of this tax," Giles concurred. He admitted that it had the approbation of a majority of the people; and pledged himself, that when the system was understood, it would be cheerfully acquiesced in.

William B. Giles had been elected to fill the place of Colonel Bland, a member of one the most respected, widely connected, and influential Virginia families. His successor, Giles, was a native of Amelia County, near the borders of the Appomatox, not far from Petersburg. Of

obscure origin, his parents made every effort to give him an education; and, after passing through the county schools, he became a student of Princeton College, where he graduated with distinction. His countenance was intelligent, his eyes and complexion dark, his figure short and thick; careless in his dress, of an air and manner that did not inspire respect nor give offence, he seemed to be one of that class of men, who had taken to politics as an excitement; and was as earnest as he would have been in any other game. In debate, he was adroit, animated, fluent, ready. Except law enough for a county court, he learned nothing from books, after his collegiate term. Trusting to his native talent, he gave to no subject long or deep consideration; but, grasping at prominent points, took the floor, as he would have engaged in a wrestling match, simply to throw his adversary. Partaking strongly of the popular sentiment among the humbler classes in Virginia, he entered the House of Representatives with no friendly feelings to the Constitution; and soon became conspicuous, as the espouser of every opinion he deemed welcome at home.

Jefferson saw his weakness as an egotist, and his value as a tool. He flattered his vanity; encouraged his audacity; prompted his violence; and, having used him to his own purposes, left him, late in life, to discover, and to recant his errors. If Jefferson was not grateful, the people of Virginia were. Sincere in their passions, their prejudices, and their theories, they bestowed on him, in succession, every preferment in their power.

His course as to the question before the House was characteristic. How his pledge as to the Excise was redeemed, will soon be seen.

On a proposal to proceed in the debate, Parker moved to postpone it, until further information was obtained

This was acceded to; and the House passed a bill, prepared in pursuance of a Report from the Secretary of the Treasury, directing the mode of renewing the evidences of the public debt, that had been lost or destroyed; and which, from the amount of property affected, was of great moment.

After a few days, the bill for increasing the Revenue was again considered, on a motion, to strike out the section which proposed a duty on spirits distilled from materials of the growth or produce of the country; which was negatived, by a vote of thirty-six to sixteen. Comparing this vote, with that of the previous session, on the same principle, it will be seen that there were those, who voted *against* it now, who had *before* voted for it; notwithstanding the present bill omitted several provisions which had been unpalatable. Such was the progress of party.

The discussion next turned upon various amendments to the details of the bill, some of which were adopted for the purpose of conciliation; but a decided stand was taken on a proposal to insert a clause limiting its duration; which was warmly urged by Tucker and Giles. The proposed limitation was strongly condemned by Gerry, Lawrence, and Sherman; as, "it would prove a palpable violation of the public faith. It made part of the provision *temporary*, while the honor of the Government was pledged to provide *permanent* funds; and, it not only converted the proposed duties into temporary funds, but rendered parts of those now permanent, merely temporary." The allegation, that it would perpetuate an odious system, was repelled by the fact, that a clause existed, which had been approved, expressly providing that other duties or taxes of *equal value* might be substituted, in case the present should prove burthensome or incon-

vénient. The proposed limitation was rejected by a large majority; and the question on the whole bill finally determined by a vote of thirty-five to twenty-one negatives —in the House of Representatives; and, with some amendments, by a vote of twenty to five, in the Senate. Madison voted against the proposed limitation of the duration of the bill; and, on the final vote, in favor of its passage.

It is important to state, in reference to a leading subject of future dissatisfaction, that the bill, as originally reported, contained a provision for "prosecutions for fines, penalties, forfeitures, and duties" being instituted before "any justice of the peace, or court of any State, of competent jurisdiction." Thus, the convenience of the accused party would have been consulted. This provision was expunged in the Senate, and was not reinstated by the House.*

It has been perceived, that an extension of the duties upon teas and wines, with a plan for warehousing the first of these articles, had been recommended by Hamilton.

A petition relative to the trade with India and China was soon after referred to him; upon which, he made a succinct REPORT; stating, that the general policy with

* This act repealed, after June, ninety-one, the duties on *imported spirits*, laid by that of ninety; and established, in lieu of them, higher rates of duty—from twenty to forty cents per gallon, according to proof. It also laid duties to commence, at the same time, on spirits distilled *within* the United States: on those from *foreign* materials from eleven to thirty cents, according to proof —on those from *domestic* materials, if distilled in cities, towns, or villages, from nine to twenty-five cents per gallon, according to proof; if distilled in other places, it imposed a yearly rate of sixty cents per gallon, according to the capacity of each still, with an *option* to the distiller to keep and render an account of the produce of his still, and to pay nine cents per gallon of the quantity of spirits distilled therein.

respect to that trade, involving questions of equal delicacy and importance, required a more deliberate investigation than the time of the present Congress would permit, and proposing to defer a full communication, until the next session. But, as the rates of duties, previously imposed on teas imported from Europe, had not been sufficient to prevent competition; and, as the American market was overstocked, he recommended an increase of duty on such teas, adequate to that object; reserving the question, how far the policy should be pursued of continuing or extending particular favors to that trade.

In pursuance of the first suggestion, an Act was passed, "making further provision for the collection of the duties imposed on teas, and for prolonging the term for the payment of the duties on wine." By this act, the Warehouse system was introduced, as to teas; a credit of two years on the duties being granted to the importers.

While these measures to augment the revenue and to secure its collection were in progress, a remonstrance of certain public creditors, residing in Pennsylvania, was presented to each branch of Congress. This document controverted, with much asperity, the principles of the Funding act. It was of the first importance to check this attempt to introduce innovations; and a resolution immediately passed the Senate, with but one dissenting voice, that it would be inexpedient, to alter that system. A similar resolution was adopted in the House of Representatives, with only two negatives.

While this branch of the Legislature were occupied with Hamilton's Revenue system; the Senate were deliberating on his plan of A NATIONAL BANK, an institution, he represented to Congress, as being "of primary

importance to the prosperous administration of the finances; and, which would be of the greatest utility in the operations connected with the support of the public credit."

The opinions he entertained of the utility of Banking, when founded and conducted on correct principles, both in promoting individual enterprise and public convenience, have been seen in the narrative of his early life.

The subsequent experience of the United States had confirmed that of other nations; and left not a doubt in his mind, that such an institution could most safely and usefully exercise the power necessary to supply a solid, uniform, and sufficient circulating medium.

After a general allusion to the evidence which existed in favor of such institutions, the Report of the Secretary took a brief comparative view of the advantages and disadvantages of a Bank.

Among the former, "the augmentation of the active or productive capital of a country" is placed first. Having explained, in a lucid manner, the mode in which this is effected, he stated the second advantage to be, the "greater facility produced to the Government in obtaining pecuniary aids, especially in sudden emergencies. While the mass of individual capital formed by their union in a Bank is thus magnified by the credit attached to it; is always ready, and can at once be put in motion; the interest of the Bank is a sure pledge of its disposition to aid the Government as far as can in prudence be desired." The third leading advantage is, "the facilitating of the payment of taxes; by enabling the citizen, by the assistance of loans, to answer with punctuality the public calls; and, by increasing the quantity of circulating medium, and quickening the circulation." The transporta-

tion and retransportation of the metals being obviated, they continue to perform their usual functions, while the process of circulation proceeds."

The supposed disadvantages of a Bank were next enumerated. That of serving to increase usury was represented as being counterbalanced by the greater punctuality induced by them; and, by their contributing to render the supply of money greater than the demand. The same effects also co-operated to prevent another evil imputed to Banks; that of their being an impediment to other kinds of lending, while they produced the positive advantage of drawing into a country, where the value of money is high, foreign capital—the interest on which is more than replaced by the profits of its employment. Their tendency to induce overtrading was deemed another objection; "but this," he said, "was obviously an occasional ill, incident to a general good." The augmentation of credit, and, that banks led to unskilful adventure and fraudulent commerce were stated to be evils of rare occurence; which experience, guided by interest, speedily corrects; and which were more than compensated by the aids they furnish to honest industry with small means, and by the ready resources they supply against fortuitous and unforeseen shocks.

But the most serious objection was their tendency permanently to banish the gold and silver of the country, by furnishing a substitute for these metals; an objection, which, if it had any foundation, would exist against every species of paper credit.

The answer given to this objection controverted the fact. The metals of a nation, without mines, are obtained in exchange for the products of its labor and industry. The quantity of them it will possess, will depend on the favorable or unfavorable balance of its trade.

Hence the state of its agriculture and manufactures; the quantity of its labor and industry, must, in the main, influence and determine the increase of gold and silver. Well constituted banks, by promoting industry, and, by increasing the materials of exportation, conduce to a favorable balance of trade; and, consequently, to the introduction of the precious metals.

The objection, that bank paper affording a substitute for specie, served to counteract that rigorous necessity for the metals as a medium of circulation, which, in the case of a wrong balance, might restrain, in some degree, their exportation, it was admitted, had some truth; but this effect could only exist in an extreme case. As the circulation is in a compound ratio to the fund upon which it depends, and to the demand for it, and as that fund is affected by the exportation of the metals, no danger was supposed to exist of its being overstocked, as in the case of paper issued at the pleasure of Government.

"Nothing," Hamilton observed, "can be more fallible than the comparisons which have been made between different countries to illustrate the position that banks tend to banish the precious metals. The comparative quantity of gold and silver in different countries, depends on an infinite variety of facts and combinations, all of which ought to be known, in order to judge whether the existence or non-existence of paper currencies has any share in the relative proportions they contain. The mass and value of the productions of the labor and industry of each compared with its wants; the nature of its establishments abroad; the kind of wars in which it is usually engaged; the relations it bears to the countries which are the original possessors of those metals; the privileges it enjoys in their trade; these, and a number of other circumstances, are all to be taken into the account; and

render the investigation too complex to justify any reliance on the vague and general surmises which have been hitherto hazarded on this point."

Their temporary exportation being facilitated by banking, conferred the obvious benefits of enabling a government or an individual to pay foreign debts; and to employ them in obtaining foreign commodities abroad; which, in a circuitous commerce, replace the original fund with considerable additions.

Having adverted to the causes which had given these objections to banks much weight in the public mind of America; and had misdirected its judgment, by ascribing to them, evils that existed in countries, under similar circumstances, where such institutions were unknown; Hamilton stated that there were peculiar reasons to recommend them in the United States.

The diminution or obstruction of their active wealth in the cultivation of waste lands; and, consequently, the slow advance of manufactures, necessarily rendered the precious metals scarce. There was much direct barter, and few alienations of improved real estate; all indicating a deficiency of circulating medium. This it was of primary importance to supply. To effect this, two modes existed—an emission of paper by the Government; or by a National Bank. The former was justly held to be a seducing and dangerous expedient, certain of being abused; seducing, as a mean to avoid temporarily, the imposition of taxes; dangerous, from its facility, because there is no standard to determine whether the issues will surcharge the circulation, while the emissions of the latter are less liable to be excessive, because they will return upon the bank; they being necessarily in a compound ratio to the fund and the demand.

In addition to these motives to supply the circulation,

there was another, peculiar to the United States at that time; the necessity of paying the interest on the public debt at thirteen different places. Without a paper, in general currency, equivalent to gold and silver, much of the specie must be suspended from circulation, and left to accumulate, preparatory to each day of payment; and there must be an actual transportation of it from its natural and proper reservoirs to distant places—a necessity injurious to trade, embarrassing to the Treasuries of the States, and obstructing mercantile negotiation.

These general views were followed by an inquiry, whether the Bank of North America superseded the necessity of a new bank; and, if not, what were the principles upon which a National Bank ought to be established? Among other arguments against adopting the Bank of North America—its limited capital; the want of a principle of rotation in its constitution; the improper rule by which each share had a vote, thus rendering a combination to monopolize its power and benefits easy; and the want of precautions to guard against foreign influence in its direction—were deemed of much weight, in respect to so important a political engine as a National Bank. But should that institution be willing to receive the necessary modifications, its adoption was recommended.

In the organization of a new bank, a plurality of branches was deemed more desirable than discreet; and, it was thought more expedient, to provide for their being established, when experience shall have demonstrated their utility. That it might become an instrument of loans to the proprietors of land, was also desirable; but, was subject to insuperable difficulties. Reasons were likewise given, why the fund ought not to be constituted partly of coin and partly of land.

That its profits should redound to the State, was de-

sired; but the Report remarked, that it was an essential ingredient in its structure, that it should be under a private, not a *public* direction; under the guidance of *individual interest*, not of *public policy*.

The State, it was suggested, might participate in a small portion of the stock—not in the direction; but should reserve the right of ascertaining its situation, in order to guard against an abuse of its privileges—excluding all pretension to control.

These governing principles being thus premised, the plan of a bank was detailed. Its capital was to be ten millions of dollars, divided into twenty-five thousand shares; each share to be payable, one-fourth in gold or silver coin; and the residue in the stock recently created, bearing a present interest of six per cent., by four instalments, at successive intervals of six months. The charter to continue until the redemption of that part of the stock, which consisted of the public debt. The bank to be incapable of holding real and personal estate of more than fifteen millions of dollars in value, including its original capital; with provisions, that its debts should never exceed the amount of its capital stock; that it should trade in nothing except bills of exchange, gold and silver bullion, or in the sale of goods pledged for loans; nor take more than an interest of six per cent.; that its loans to the Government should not exceed fifty thousand dollars, without a previous authorization by law; and that, it should make no loan to any foreign Prince, or State, without such authority.

The direction was to consist of twenty-five persons, annually chosen by a plurality of the stockholders; three-fourths of whom, only, to be re-eligible for the succeeding year, with the exception of the Director, chosen as President. To prevent combinations, the right of voting

was graduated by a diminishing ratio, as the number of shares increased; and non-resident stockholders, to avoid foreign influence, were excluded from voting by proxy. The dividends were to be half yearly.

The bills of the bank, payable in gold and silver on demand, were to be receivable in all payments to the United States; and the officer at the head of the Treasury Department, was entitled to require weekly returns of its situation, and to inspect its general accounts. No similar institution was to be established during the continuance of its charter; and the President was authorized to subscribe two millions of dollars to the stock, payable out of either of the loans to be made in virtue of either of the Acts providing for the Public debt; borrowing of the bank an equal sum, to be applied to the purposes for which these monies shall have been procured; reimbursible, in ten years, by equal annual instalments; or sooner, and in such greater proportions, as the Government may think fit.

The combination of the public debt in the formation of a part of the capital, was in order to create a capital sufficiently large to become the basis of an extensive circulation, and an adequate security for it—the collection of such a sum in coin being impracticable; and this stock being, from the state of public credit, readily convertible, on an emergency, into specie. The benefit of this combination to the public creditors—to the community at large—and to the subscribers to the bank, produced by accelerating the rise of the public debt to its proper point, was an important consideration. The Bank of England, in its first creation, rested wholly on that foundation.

The limitation of the amount to which the bank could contract debts was made in reference to its Stock capital; and, the interdiction of any loans to a Foreign power,

or beyond a fixed amount to the United States, was a measure of policy to prevent injurious combinations; and to serve as a barrier to Executive encroachments.

The limitation of the rate of interest had reference to the existing rates in different parts of the United States, and to its tendency to lower those rates; the only doubt entertained was, whether five per cent. ought not to have been the rate, had it been supposed to offer a sufficient inducement to subscribers.

The chief design of the authority to the President of the United States, to subscribe to the stock, was to enlarge the specie fund of the Bank; and thus, enable it to give a more early extension to its operations; while the disbursement of what was borrowed was to be progressive, and in the form of notes, instead of coin; the annual reimbursement of such loans, operating finally, as an actual investment of so much specie. The positive profit in the excess of the dividends beyond the interest paid for the sum subscribed, though a small, was an auxiliary inducement.

CHAPTER LXIV.

MANY and frequent as have been the discussions on the subject of Incorporated Banks, it would be vain to seek any valuable views, not embraced in this Report. Not only have all its arguments been fully sustained, but Hamilton's plan of the institution has been pronounced "perfect." If this commendation be too strong; it may with confidence be asserted, that the innovations on it in the bank subsequently chartered, have not brought into question the wisdom of the first organization.

By a comparison of the draft of the bill in the handwriting of the Secretary of the Treasury, with that which was enacted, it appears that, with the exceptions—that the name was in blank, leaving it open, whether the "Bank of North America" should be incorporated as a National Bank; and of a clause in the third section, by which the charter was to continue "until the final redemption of that part of the stock which shall consist of the Public debt," no other amendments were made than those contained in the eighth and ninth sections.*

* The eighth section prohibited the bank from trafficking in goods, wares, or merchandize, contrary to the provisions of its charter, under pain of forfeiture. The ninth imposed a similar forfeiture, if the bank should loan to the United States more than one million of dollars; to any of the States more than fifty thousand dollars; or to any Foreign State, any sum, unless authorized by law.

This draft was reported by Caleb Strong, in behalf of the Committee of the Senate, on the third of January; and having been considered during the succeeding days, a motion was made on the thirteenth, to limit the term of incorporation to a period of seven years. On the same day, to impair the influence of the Secretary of the Treasury, Resolutions and a Memorial of Virginia were presented in the Senate, by Monroe, a recently elected Senator from that State, condemning the Act making a provision for the Public debt. They made no impression.

The motion to limit the term of the existence of the National Bank to seven years, was followed by a proposition to extend the charter until the fourth of March, eighteen hundred and fifteen. It passed by a vote of eleven to ten.

The next day, a proposal to insert a proviso, that the charter might be *amended* on giving twelve months notice, from and after the *first of January*, eighteen hundred was negatived; and it was agreed, to limit the term of incorporation to the fourth of March, eighteen hundred and eleven. On the nineteenth of January, it was proposed to expunge the section, pledging the faith of the United States, that no other bank should be incorporated during the term of its present charter, which was rejected by a vote of eighteen to five.* An attempt to limit the charter to the year eighteen hundred and one, was made the next day, but was defeated by a vote of sixteen to six,† and a renewed motion to expunge the clause, securing an exclusive charter to the bank, met with a similar fate.

The opponents to the bill, having failed on these two

* Butler and Izard, South Carolina; Few, Georgia; Hawkins, North Carolina; Monroe, Virginia.

† The Senators from South Carolina and Georgia; Hawkins of North Carolina, and Monroe of Virginia.

points, the bearings of which will be hereafter seen, it passed the Senate, on the twentieth of January, there being no reason to believe that the question of its constitutionality was raised in that body.

The bill was read in the House on the twenty-first of January; and on the thirty-first, it was proposed to consider it, which was objected to, on the ground, that the militia bill ought to have precedence. The Bank bill was then read, in paragraphs; and, no amendments being offered, was reported to the House, which voted that it be read the third time, the next day.

The engrossed bill being then read, upon the question whether the bill should pass, a motion was made by Smith, of South Carolina, to recommit it for the purpose of obviating several objectionable parts, among which, he indicated the clause which omitted to require bonds for their fidelity from the persons authorized to receive subscriptions; that, which excluded foreigners from voting by proxy; and the too limited time, within which, the subscriptions were to be received. Madison appealed to the candor of the House to recommit the bill—in which Stone and Giles united, declaring their opinion that the measure was unconstitutional. Lawrence denied the allegation that the bill was precipitated, stating, that it had been laying in the hands of the members; that all the usual forms had been passed through, and, that not a single objection had been raised. In these views, Gerry, Boudinot, and Ames concurred, observing, that a recommitment might issue in a defeat of the bill for the session—the latter insisting on the absurdity of going into a committee to discuss the constitutionality of a bill, which, if unconstitutional, should be rejected at once. The motion for a recommitment being lost, Madison, on the final question,

made an elaborate speech, reviewing the advantages and disadvantages of banks.

He said, if banks were useful, "the most important of the advantages would be better obtained by the distribution of several banks, than by a single one; as giving greater aids to commerce, and greater facilities to Government.

"The plan did not make so good a bargain for the public, as was due to its interests. The charter of the Bank of England had been for a term of *eleven years only;* and was paid for by an advantageous loan to the Government. Every renewal had, in like manner, been purchased—in some instances at a very high price.* The same had been done by the Banks of Genoa, Naples, and other banks of circulation. The plan was unequal to the public creditors, preferring the holders of a particular denomination of the debt, and those near the seat of Government; by which, if the subscription should be rapid, distant holders would be excluded."

These general objections were offered as a preface to the principal objection which he raised—a denial that "the power of establishing an *incorporated* bank had been vested by the Constitution in the Legislature of the United States,"—in confirmation of which position, he stated, "his recollection, that a power to grant charters of incorporation had been proposed in the General Convention, and rejected."

* The Bank of England, at its inception in 1694, was an incorporation of the subscribers to a loan, and was a condition of the loan. The first advance or loan by the Bank to the Government was in 1708, *without* interest, the charter being renewed, and almost exclusive control being given by Parliament over banking issues. At each subsequent renewal, loans, without interest, have been required in return for the prolongation of its exclusive privileges.

The argument against the Constitutionality of the bank, was founded on the general position, "that the Federal Government was peculiarly limited," not being "a general grant, out of which particular powers are excepted;" but "a grant of particular powers only, leaving the general mass in other hands." The power of creating incorporations not being found among the enumerated "particular powers, must be derived by *implication* from those which were expressly given." Of these, the only clauses under which it could be claimed, were alleged to be those of levying and collecting taxes to pay the debts and provide for the common defence and general welfare —the power to borrow money on the credit of the United States; or, that of passing all laws necessary and proper to carry those powers into execution. From neither of these clauses, it was asserted, this power could be implied. The bill did not lay a tax; nor could any valid argument be derived from the phrases, "common defence and general welfare." "To understand these terms in any sense that would justify the power in question, would give to Congress an unlimited power; would render nugatory the enumeration of particular powers; would supersede all the powers reserved to the State Governments. Nor could it be more fairly derived, from the power of borrowing money. The bill did not borrow. To say that the power to borrow involves a power of creating the ability, when there may be the will to lend, is not only establishing a dangerous principle, but it is as forced a construction, as, to say, that it involves the power of compelling the will, where there may be the ability to lend." The clause giving the power to pass all laws necessary and proper to execute the specified powers, "was limited to means necessary to the *end*, and *incident* to the *nature* of the specified powers." It was merely de-

claratory, of what would have resulted by unavoidable implication, as the appropriate, as it were, technical means of executing these powers; and, if extended further, would confer an unlimited discretion on Congress, and would destroy the essential characteristic of the Government, as one composed of limited and enumerated powers. "The doctrine of implication was a very tender one; the danger of it has been felt in other Governments; the delicacy was felt in the adoption of our own; the danger may also be felt, if we do not keep close to our chartered authorities. If the reasoning, on which the bill proceeded, was granted, the effect would be, to form a chain of implications that will reach every object of legislation." After adducing several passages in the Constitution, to enforce this objection, and to show, "that it condemned the exercise of any power, particularly a great and important power; which is not evidently and necessarily involved in an express power," Madison proceeded to exhibit the importance of this power from its effects. "It created an artificial person not existing in law," on which important civil rights and attributes were conferred "which could not be otherwise claimed;" being equivalent, though not similar to the power of naturalization—a power which Congress would not have had—"if it had not been expressly given." By authorizing the Bank to make by-laws; the bill delegated a sort of legislative power, with this only restraint, "that they should not be contrary to the laws and the constitution of the Bank." If this meant the laws of the United States, it would give a power never before given to a corporation; and, which would supersede the laws of the States within their own jurisdiction. If the law of the State was intended, "then the State might make laws that would destroy an institu-

tion of the United States." It gives a power to purchase and hold lands, which Congress could not do within a State, without its consent. It takes from our successors, the opportunity for an *immoderate term*, of exercising the right of deciding on the subject, which they ought equally to possess with ourselves. "It takes from our constituents the opportunity of deliberating on the untried measure, although their hands are absolutely to be tied by it, for the same term. It involves a monopoly —affecting the equal rights of every citizen."

From this view, the power of incorporation "was, in its nature, a distinct, an independent and substantive prerogative; which, not being enumerated in the Constitution, could never have been meant to have been included in it; and, not being included, could never be rightfully exercised." "It never could be deemed an accessory or subaltern power, to be deduced by implication, as a means of executing another power."

This opinion was sought to be sustained by reference to the cotemporary expositions given to the Constitution, when it was submitted to the people. The defence of the want of a bill of rights presupposed, that the powers not given were retained, and that those given were not to be extended by remote implication;" and similar explanations were adduced, as having been given in the State Conventions. "The ratifications of the States," he said, "formed a striking evidence, wearing the same complexion"—circumstances which acquired greater force from the character of the explanatory amendments proposed by Congress, and ratified by the States.

"In fine, if the power were in the Constitution, the immediate exercise of it cannot be essential; if not there, the exercise of it involves the guilt of usurpation; and

establishes a precedent of interpretation, levelling all the barriers, which limit the powers of the General Government, and protect those of the State Governments."

The opposition to the bill was also sustained, by Giles and Stone. Their observations on the Constitutional question, were chiefly repetitions of the previous argument, amplified by allusions to other features of the Constitution. In the course of these, Giles remarked, "that the true exposition of a necessary mean to produce a given end, was that mean without which the end could not be produced." With these were mingled earnest denials of the charge, that the opinions of the opponents of the bill had been warped by *considerations connected with the future* SEAT OF GOVERNMENT!

The bill was defended by Ames, Sedgwick, Smith, Lawrence, Boudinot, Gerry, and Vining.

A public Bank was declared to be "useful to trade; almost essential to revenue; and little less than indispensably necessary in times of public emergency." "In countries, whose forms of government left them free to choose, this institution had been adopted of choice; and in times of national danger and calamity, had afforded such aid to government, as to make it appear in the eyes of the people, a necessary means of self-preservation." Their utility and policy had been confirmed by the experience of the world. The objection to the proposed duration of the charter was met, by an exposition of the benefits, which the Government would derive from this institution; and of the evils of a fluctuation in the money system of a nation; and *by the assertion, that the objection was not real, but had reference to the establishment of the* SEAT of GOVERNMENT.

The terms of subscription, it had been alleged, gave undue advantages to the mercantile class; but, as the

Government must rely principally on the merchants to subscribe to the stock, it was necessary to offer them sufficient inducements to withdraw a part of their capitals from their commercial pursuits.

In respect to the Constitutional question, as to Madison's representation, that a power to grant charters of incorporation had been proposed in the General Convention and rejected; his veracity, as it had previously been in the debate on the Assumption of the State debts, was again brought into question. Gerry stated, "that no motion was made in that Convention, and therefore none could be rejected, for establishing a National Bank." "The measure" referred to (by Madison), "was a proposition merely to enable Congress to erect *commercial* corporations, which was and ought always to be negatived." *

The inference to be drawn from the alleged cotemporary expositions of the State Conventions was controverted by the statement, that "when Congress established the 'Bank of North America,' though restrained by the confederation from exercising any powers not expressly delegated; though they gave it an exclusive monopoly; though they determined that its bills should be receivable in the taxes and duties of every State; though they recommended that the States should *prohibit any State establishment of that kind;* the States, nevertheless, did not remonstrate against the Bank, or merely tacitly acquiesce in it; but actually supported the measures of Congress relative to it, whilst the war continued, and *after the peace.*" The existence of any evidence of disapprobation of a bank, either in the details of the State Conventions,

* Hugh Williamson, another member of the Convention, after adverting to the objections deduced from the Constitution, also explained the clause respecting monopolies, "as referring altogether to *Commercial Monopolies.*"

or in the propositions for amendments to the Constitution, was denied; and, it was urged, "that whilst the Conventions were silent on this subject, and had no objections to such a measure, several of them had proposed amendments to the Constitution, for restraining Congress from establishing *Commercial Corporations*, which evinced their disapprobation of such institutions; and admitted, at the same time, in some degree, the power of Congress, under the existing Constitution, to form them." By the amendments proposed by New Hampshire, Massachusetts, and New York, it is apparent, that these States considered Congress as possessing the power to establish companies with exclusive privileges.

It was not denied, that the Government of the United States was limited by the terms of its creation; or that the powers which it could exercise, were only those conferred upon it by the Constitution. "Let us examine the Constitution," observed Ames, "and if that forbids our proceeding, we must reject the bill, though we shall do it with deep regret, that such an opportunity to serve our country must be suffered to escape for the want of a constitutional power to improve it." While the general principle was admitted, it was asserted, that the powers to be exercised by the Legislature could not be confined to those *expressly* given by the Constitution, but may be deduced by a reasonable construction of that instrument.

This opinion was sustained by reference to the whole train of Congressional legislation. Our right to govern the Western Territory is not disputed. It is a power which no State can exercise. It *must* be exercised, and therefore it resides in Congress; but how does Congress get the power? It is not expressly given in the Constitution, but is derived from the nature of the case, or by implication from the power to regulate the property of

the United States. If the power flows from the nature and necessity of the case, is there not equal authority for the bank?

Congress has exercised the very power of creating a corporation. The Government of that Territory is a corporation; and who will deny, that Congress may lawfully establish a bank beyond the Ohio?

"There is not, by the Constitution, any power expressly delegated to mortgage our revenues; and yet, without any question being made on the constitutionality of the measure, we have mortgaged them to an immense amount. Whence is the authority to exercise this power acquired? Not from express grants, but being empowered to borrow money on the credit of the United States, we have very properly considered the pledging funds, as among the *known* and *usual* means, *necessary* and proper, to be employed for the attainment of the end, expressly delegated." Under the power of establishing courts, we have implied the power of punishing the stealing and falsifying the records; and ascertained the punishment of bribery, extortion, and perjury. The Constitution vests Congress with power to dispose of certain property in lands, and to make all useful rules and regulations for that purpose. Can its power be less over one species of its own property than over another? Under the power to regulate trade, Congress had taxed ships, erected lighthouses, made laws to govern seamen, because they were incidents to that power; because, "wherever a power is delegated, for express purposes, all the known and usual means for the attainment of the objects expressed, are conceded also"—a principle recognized by the Constitution in the section which confers on Congress its powers; and specifies among them, that of making "all laws necessary and proper for carrying into execution all the pow-

ers vested in the Government, or in any department or officer of it."

Sedgwick remarked, "We have, with great earnestness, been warned of the danger of grasping power by construction and implication; and this warning has been given in very animated language by the member from Virginia.* I do not wish to deprive him of the honor of consistency; but, I well remember the time, when the energy of his reasoning impressed on the minds of a majority of this House a conviction that the power of removal from offices holden at will, was, by construction and implication, vested by the Constitution in the President; for there could be no pretence, that it was expressly granted to him."

As to the dangers of implication, the inquiry was also raised, which was the most dangerous—a liberal or a destructive interpretation? Instances were also adduced by Gerry, to show that the present interpretation of that member was inconsistent with that which he had previously approved; and which had been sanctioned by Congress. The first instance, was the Act establishing the Executive departments, which gives to the President the power of removing from office. "As the Constitution is silent on this subject, the power mentioned by the gentleman's own reasoning, is vested in the States, or in the people. He, however, contended for an *assumption* of the power; and, when assumed, urged that it should be vested in the President 'ALONE.' In the other case, Congress determined by law, with the sanction of the President, when and where they should hold their next Session; although the Constitution provides that this power shall rest solely in the two Houses. That gentleman also advocated this measure, and yet appears to be

* Madison.

apprehensive of the consequences that may result from a construction of the Constitution, which admits of a National Bank. But, from which of these measures is the most danger to be apprehended? The *only* danger from our interpretation would be the exercise by Congress of a general power to form corporations. But the dangers resulting from the gentleman's interpretation, in the cases alluded to, are very different; for what may we not apprehend from the precedent of having *assumed* a power on which the Constitution is silent; and from having annexed it to the Supreme Executive! If we have this right in one instance, we may extend it to others, and make him a despot."

There was another argument in favor of the constitutionality of the bank, not used in the debate, to which subsequent experience has given much force. The State Governments were, by the Constitution, divested of the power of coining, of emitting bills of credit, and consequently of creating a currency, either gold, silver, or paper; but it cannot be supposed, that the framers of the Constitution were ignorant of the necessity of a paper currency, else, why was the proposition to prohibit the emission of bills of credit by Congress, rejected by the Convention? Such a currency being absolutely necessary, Congress were alone competent to create such a medium—and are alone competent to control it. If not created by an immediate issue of Government paper, a power dangerous from the facility of its abuse, it must be effected by a National institution, or by those of the States authorized by Congress. But Congress cannot consistently, with the provisions of the Constitution, delegate to a State, such a power for such a purpose.

To this dilemma were the opponents of this bill driven,

in consequence of their denial of the unquestionable principle, that where a general power is conferred, without any specification of the means by which it is to be exerted—the selection of those means is confided to the discretion of those with whom the trust is reposed, provided, they do not resort to such as are expressly prohibited, or are in themselves immoral.

After a discussion of six days, in which the several objections to the Act of Incorporation were earnestly urged and controverted, the question was taken, and the bill passed on the eighth of February, by a vote of thirty-nine to twenty members.

On the preceding day, a Committee was appointed to report a supplementary bill; the objects of which were, to regulate the time, amount, and specie proportion of the subscription, so as to remove some of the objections raised to the original bill. This bill was reported to the House on the tenth; and on the twenty-second of February was discussed, when clauses were inserted, altering the time and amounts of subscription; providing that the stock subscription might be, either, in the three or six per cents. of the Continental and assumed debt; the three per cents being receivable at *two* for *one* of the six per cents.; and thus amended, the bill passed the House.

On the fourteenth of February, the bill incorporating the subscribers to the Bank, was presented to the President for his approbation.

A strenuous effort had been made by the leaders of the opposition, in the Cabinet, to preoccupy his mind.

On the twelfth of February, two days previous, Randolph, the Attorney General, presented to the President an opinion. In this opinion, he remarked, that the clause of incorporation was the *only part* of the bill which was

not warranted by the Constitution. He asserted, that the power of creating incorporations was not *expressly* given to Congress, and if exercised, it must be by implication from the nature of the Federal Government. This would beget a doctrine so indefinite, as to grasp every power; but the Federal Government possessed no power, that was not delegated to it—a restriction, which excluded the idea, not unpatronized, that Congress may exercise all authority, to which the States are individually incompetent. Or it must be exercised, because the power of incorporation is involved in some of the specified powers of legislation.

To disprove this, an analysis was made of the powers conferred by the Constitution upon Congress; and it was insisted that, in neither of these, this power was involved. It was further declared, that the clause giving Congress power to make "all laws necessary and proper" to execute the powers vested by the Constitution, was mere surplusage, and could not be deemed to have either an enlarging or a restrictive effect.

This opinion was followed by a second, giving an outline of the arguments urged by the advocates and opponents of the bill, with brief comments upon each.

The opinion of Jefferson, which may be supposed to have been previously prepared, was dated the day after the bill had passed. It commenced with a statement, that the bill undertook to form the subscribers into a corporation—to enable them to receive grants of land in their corporate capacities, and was thus against the law of *mortmain*—to make alien subscribers capable of holding lands, and, so far, was against the laws of *alienage*—to transmit them, on the death of the proprietors, to a certain line of successors, and was thus against the laws of *descent*—to put them out of the reach of forfeiture and

escheat, and so far was against the laws of *distribution*—and, to give them the sole and exclusive right of banking under the National authority, and so far was against the laws of *monopoly*.

That the foundation of the Constitution was laid on the ground of the twelfth amendment to it—"that all powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States or to the people;" and that, to step beyond these boundaries, would be, to take possession of a boundless field of power. It proceeded to show, that the power of incorporation was not among the powers especially enumerated. It was not a power, "*to lay taxes*," in order to pay debts, for no debt was paid by this bill, nor tax laid—nor to *borrow money*, for it neither borrowed nor insured the borrowing of money—nor to *regulate commerce*, for he who erects a Bank, creates a subject of commerce in its bills, but does not regulate it; and, if this was a power of regulating commerce, it would extend to the internal commerce of the States, which remains exclusively with their own Legislatures.

It was not embraced within either of the general phrases of the Constitution; not in that, to lay taxes to provide for the general welfare; for the laying taxes is the power, the general welfare, the *purpose* for which the power is to be exercised. To consider this phrase, as giving a distinct and independent power, to do any act for the good of the Union, would be to defeat the several enumerations of power, and to confer all power of good, and, consequently, of evil. No such universal power was meant to be given. It was intended to lace them up straitly, within the enumerated powers, and those without which, as means, those powers could not be carried into effect.

Neither was it embraced under the phrase "to make all laws necessary and proper for carrying into execution the enumerated powers." They all can be carried into execution without a Bank; and, therefore, a Bank is not necessary, and not authorized by this phrase. "*Necessary*" does not mean *convenience*. The Constitution restrained Congress to the necessary means—those, without which, the grant of the power would be nugatory. The next point considered, was the question of *convenience*; and it was asserted, that Treasury orders and bills of exchange would equally effect the alleged advantage of a Bank—that of "preventing the displacement of the main mass of the money collected." Bank bills may be a more convenient vehicle than Treasury orders; but, a little difference in the degree of convenience cannot constitute the necessity intended by the Constitution. Were there no National Bank, the State Banks would lend their agency, and *compete with each other*. Whereas the bill delivers us up bound to the National Bank, who are free to refuse all arrangements but on their own terms; and the public are not free, on such refusal, to employ any other Bank.

The superior currency of its bills over those of the State Banks would be more convenient, but so would those of a Bank having a currency over the world; "but, it does not follow, that there exists anywhere such a power to establish such a Bank, or that the world may not go on very well without it."

"Can it be thought the Constitution intended that, for a shade or two of convenience, more or less, Congress should be authorized to break down the most ancient and fundamental laws of the several States," such as those he had previously stated, the bill violated? "Nothing, but a necessity, invincible by any other means, can justify such

a prostration of laws, which constitute the pillars of our whole system of jurisprudence. Will Congress be too strait laced to carry the Constitution into honest effect, unless they may pass over the foundation laws of the State Governments, for the slightest convenience to theirs? The negative of the President is the shield provided by the Constitution to protect against the invasion of the Legislature, the rights of the Executive, of the Judiciary, of the States, and State Legislatures. The present is the case of a right, remaining exclusively with the States, and is, consequently, one of those intended by the Constitution to be placed under his protection."

These opinions were communicated by the President to the Secretary of the Treasury, on the sixteenth of February, in order that he might examine and answer the objections contained in them; that he might be, "fully possessed of the arguments *for* and *against* the measure, before he expressed an opinion."

The term of the first Congress would expire on the fourth of March; and, the few days of its session, which remained, imposed the necessity of as early a reply to these objections, as was practicable; but the same cause rendered his attention to his official duties urgent, and gave Hamilton less leisure than he would have desired to command.

A note was addressed by him to the President, on the twenty-first of February, five days after the objections to the bank were placed in his hands, requesting his indulgence for the delay in furnishing his reply; stating, that he had "ever since been sedulously engaged on this subject; and that it would be impossible to complete it before the evening of the twenty-second, or morning of the twenty-third; as he was anxious to give the poin a *thorough examination.*"

It is related, that in the evening of the twenty-second of February, he repaired to the house of a friend, a distinguished member of the bar,* and, as they walked to and fro, that he recapitulated the various arguments he had embodied in his Report, requesting him, as he proceeded, to suggest such objections as might occur to him; that he then returned to his residence, and employed the night in completing it. The following morning, he enclosed it in a note to the President, in which he mentioned the fact, that it had "occupied him the greatest part of the previous night;" and that the bill for extending the time of opening subscriptions, "had passed the previous day, unanimously, to an order for engrossing."

This "Opinion on the Constitutionality of a National Bank," which has been regarded by the statesmen and jurists of this country as a most powerful effort of intellect, opened in a manner, well calculated to impress on the mind of the President, the great importance of the question he was called to decide.

Hamilton avowed, that he felt uncommon solicitude in performing this task; "That personal considerations alone, arising from the reflection, that the measure had originated with him, would be sufficient to produce it; that the sense which he had manifested of its importance to the successful administration of the financial department; and an expectation of serious ill consequences to result from its failure, did not permit him to be without anxiety. But that his chief solicitude arose from a firm persuasion, that principles of construction, like those espoused by the Secretary of State, and the Attorney General, would be *fatal* to the just and indispensable authority of the United States."

The general denial of the authority of the United

* William Lewis, of Philadelphia.

States to erect Corporations, he met, in the outset, by a statement of a great leading truth: that this *general principle* is *inherent* in the very definition of government, and *essential* to every step of the progress to be made by that of the United States; that every power invested in a government is, in its nature, SOVEREIGN, and includes, by *force* of the *term*, a right to employ all the means requisite and fairly applicable to the attainment of the *ends* of such power; and which are not precluded by restrictions and exceptions specified in the Constitution; or not immoral, or not contrary to the essential ends of political society."

It was, therefore, incumbent upon those who deny this principle, to prove a distinction; and, to show, that a rule, which in the general system of things is essential to the preservation of social order, is inapplicable to the United States. From the division of the powers of sovereignty between the National and State Governments, it does not follow, that each of the portions of *power* delegated to the one, or the other, is not sovereign, with regard to its proper objects. It only follows, "that each has sovereign power as to *certain things*, and not as to *other things*. To deny that the Government of the United States has sovereign power as to its declared purposes and trusts, because its power does not extend to all laws, would be equally to deny, that the State Governments have *Sovereign* power in *any* case, because their power does not extend to *every* case.

"The tenth section of the first article of the Constitution, exhibits a long list of very important things which they may not do; and, thus, the United States would furnish the singular spectacle, of a political society without *sovereignty*, or of a people governed without Government.

"The clause which declares, that the Constitution and the laws of the United States made in pursuance of it, and all treaties made under their authority, shall be the *Supreme law* of the Land, is decisive to prove, that its powers as to its objects are sovereign. To erect corporations, is an incident of sovereign power; and consequently to that of the United States, in relation to the objects intrusted to their management. Thus, where the authority of the Government is general—it can create corporations, in all cases; where confined to certain branches of legislation, it can create corporations, only in those cases."

This principle, untouched by either of the opposing members of the Cabinet, was deemed conclusive as to the question of constitutionality.

Hamilton next investigated the particular arguments urged against the bill. He admitted the proposition, "that all powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States, or to the people," as being a mere consequence of this republican maxim, that all Government is a delegation of power; but he stated, "that how much was delegated was a question of fact, to be made out by fair reasoning and construction, upon the particular provisions of the Constitution, taking as guides the general principles and general ends of Government.

"There are *implied*, as well as *express* powers; the former, as effectually delegated as the latter; and there is another class of powers, which, may properly be denominated, Resulting powers. Jurisdiction over conquered territory would rather be a *result* from the whole mass of the powers of the Government, and from the nature of political society, than a consequence of either of the powers, specially enumerated.

"This is an extensive case in which the power of erecting corporations, is either implied or would result from some or all of the powers of the National Government; as it must be conceded, that implied powers are delegated equally with expressed ones. It follows, that a power of erecting a corporation, may as well be implied, as an instrument or a mean of carrying into execution any of the specified powers, as any other mean or instrument whatever. The only question in any case is, whether the mean to be employed, has a natural relation to any of the acknowledged objects, or lawful ends of the Government."

"Imagination appears to have been unusually busy upon this subject. An incorporation seems to have been regarded as some great independent, substantive thing, whereas it is truly to be considered, as a quality, capacity, or mean to an end. By the Roman law, its source, a voluntary association could produce it. In England, it is a part of Executive authority, which has often been delegated by that authority. Whence, then, the supposition, that it lies beyond the reach of all those very important portions of sovereign power, legislative, as well as executive, which belong to the Government of the United States?"

To this reasoning it had been objected, that none but "necessary and proper" means were to be employed; and that no means can be necessary but those, without which the grant of the power would be nugatory.

Hamilton denied this restrictive interpretation; alleging that it was the intent of the Convention, as indicated by the clause containing this term, to give a liberal latitude to the exercise of the specified powers. Such an interpretation would beget endless uncertainty and confusion; and would make the criterion of the exercise of any implied powers, *a case of extreme necessity;* but the

degree in which a measure is necessary, can never be a *test* of the *legal right* to adopt it.

"The relation between the *measure* and the *end;* between the *nature* of the *mean*, employed towards the execution of a power, and the *object* of that power, must be the criterion of constitutionality; not the more or less, of necessity or utility. This restrictive interpretation is also contrary to this sound maxim of construction; that the powers contained in a constitution of Government, especially those which concern the general administration of the affairs of a country, ought to be construed liberally, in advancement of the public good. But, if only those means could be employed, without which the power would be nugatory, not only would this right of selection be taken away, but, in cases where an option of means existed, it might be urged against the employment of either, that it was not *indispensably necessary* to the end. It is not contended, however, that this clause gives any new or independent power, but it gives an explicit sanction to the doctrine of implied powers; and is equivalent to an admission of the proposition, that the Government, as to its *specified powers and objects*, has plenary sovereign authority; in some cases paramount to that of the States, in others co-ordinate with it.

"The power to create Corporations, it is true, is not granted in terms, neither is the power to pass any particular law, nor to employ any of the means by which the ends of the Government are to be attained. It is not expressly given, in cases where its existence is not controverted. By the grant of a power to exercise exclusive legislation in the territory which may be ceded to the United States by the States; and in that of the power 'to make all needful rules and regulations, respecting the territory or other property of the United States,' it is

admitted, to be implied. In virtue of this clause has been implied the right to create a Government; that is, to create a body politic or corporation of the highest nature; one that, in its maturity, will be able itself to create other corporations. Thus, has the Constitution itself, refuted the argument which contends, that had it been designed to grant so important a power as that of erecting corporations, it would have been mentioned."

The general objections being thus answered, the allegation of the Secretary of State, that this charter of incorporation undertook to create attributes against the laws of alienage and the other laws mentioned by him, is considered.

"'If these,' it is observed, 'are the foundation laws of the States,' they have, most of them, subverted their own foundations, for they have made material alterations in some of those branches of jurisprudence; but that cannot be called a fundamental law, which is not established in a constitution, unalterable by the Legislature. It is not accurate to say, that the erection of a corporation is against those laws. It is to create a person or entity to which they are inapplicable. But were it so, this would not prove it to be unconstitutional. For almost every new law is an alteration of an old law; and if the Government of the United States can do no act which amounts to an alteration of a State law, all its powers are nugatory. The Bank bill, neither prohibits any State from erecting as many banks as it pleases, nor the association of any number of individuals for the same purposes; thus not creating a *legal impediment*, there is a peculiar inaccuracy in the suggestion of the Secretary of State, that it is against the laws of monopoly.

"The by-laws of a bank, operating only upon its own members, and only concerning its own property, and be-

ing expressly declared not to be contrary to law—and law necessarily meaning here the law of a State, or of the United States—it is equally incorrect to say, that power was given to this institution to make laws paramount to those of the States."

Another argument adduced by the Secretary of State was, the rejection by the Convention, of a proposition to empower Congress to make corporations, either generally or for some special purpose. "What was the precise nature or extent of this proposition, or what the reasons for refusing it," Hamilton observed, "is not ascertained by any authentic document, or even by accurate recollection. As far as any such document exists, it specifies only Canals. If so, it only proves that it was thought inexpedient to give a power to incorporate, for the purpose of opening canals; for which purpose, a special power would have been necessary, except with regard to the Western Territory. But very different accounts are given of the import of the proposition, and of the motives for rejecting it. Some affirm, that it was confined to the opening of canals and obstructions in rivers; others, that it embraced banks; and others, that it extended to the powers of incorporating generally. Some again allege, that it was disagreed to, because it was thought improper, to invest in Congress, a power of erecting corporations; others, because it was thought unnecessary to specify the powers, and inexpedient to furnish an additional topic of objection to the Constitution. In this state of the matter, no inference whatever, can be drawn from it. But, whatever may have been the nature of the proposition, or the reasons for rejecting it, nothing is concluded by it. The intention of the framers of a constitution, or of a law, is to be sought for in the instrument itself, according to the usual and established usages of

construction. If, then, a power to erect an incorporation be deducible, by fair inference, from the whole, or any part of the Constitution, the argument, drawn from extrinsic circumstances, regarding the intention of the Convention, must be rejected."

The assertion of the Attorney General, that the power of creating an incorporation is not *expressly* given, is next controverted. It is admitted, that it is not given in *express* terms, but there are *express* powers which necessarily include it. Of these, that giving Congress *exclusive legislation in all cases* whatsoever, over certain places, is one; for language does not afford a more complete designation of sovereign power, than is contained in those comprehensive terms. This observation is followed by a reply to the attempted enumeration of powers, made by that officer in order to show, negatively, that the power of erecting corporations is not included. The defectiveness of this enumeration is exposed, and it is shown, that in one of the enumerated powers, the very power of erecting corporations is comprised.

In confirmation of the assertion that this power exists, two instances are adduced of its having been actually exercised—in the erection of two governments, one North-west, and the other South-west of the Ohio.

The general power to erect corporations being shown, the next object was to prove "that there is a power to erect one of the kind proposed by the bill."

Having delineated the nature, faculties, and objects of the bank, Hamilton proceeded to indicate the relation of this institution to some of the specified powers of the Government. It related to the power of collecting taxes, indirectly, by facilitating the means of paying them; directly, by creating a *convenient* species of medium in which they were to be paid. Of this relation, various il-

lustrations are given. It related to the power of borrowing money, because it is an usual, and, in sudden emergencies, an essential instrument in obtaining loans to Government; and the legislative power of borrowing money, and of making all laws necessary and proper to execute this power, seems, obviously, competent to the appointment of the *organ*, through which it may be more efficaciously exerted. It related, naturally, to the regulation of trade between the States; in so far as it is conducive to the creation of a convenient medium of exchange between them, and to the keeping up of a full circulation; thus encouraging enterprise, and advancing navigation and manufactures. But the Secretary of State had urged, "that if this was a regulation of commerce, it would be void, as extending as much to the internal part of every State, as to its external." It was replied, what regulation of commerce does not extend to the internal commerce of every State? What can operate upon the whole, but must extend to every part? It also was contended to be, within the operation of that provision of the Constitution which authorizes Congress to make all needful rules and regulations concerning the property of the United States; * as the Bank bill contemplated the Government in the light of a joint proprietor of the stock of the Bank.

The evidence, from an aggregate view of the Constitution, was deemed of no inconsiderable weight. "The great powers of raising and appropriating revenue; of coining money and regulating foreign coins; of making all needful rules respecting the property of the United

* In his speech against the charter, it was remarked by Madison, "that the clause of the Constitution, which had been so often recurred to, and which empowers Congress to dispose of its property, he *supposed*, referred only to the property *left* at the conclusion of the War, and has no reference to the moneyed property of the United States!!!"

States; all combined, as well as the reason and nature of the thing, speak strongly this language, that it is the manifest design and scope of the Constitution to vest in Congress all the powers requisite to the effectual administration of the finances of the nation. Can it be supposed, that a Government of such power, is precluded the employment of so usual and so important an instrument as a Bank? Nothing but demonstration should exclude the idea, that such a power exists."

Having proved that this bill did not abridge any pre-existing right of any state or individual; and that the institution had a more direct relation, as to its uses, to the objects of the powers delegated to the National Government, than to those of the reserved powers of the States; the Report closed with a few observations, on the *very essential* advantage to trade, peculiar to a bank circulation equal to gold and silver; and with a denial of the affirmation of the Secretary of State, that the bill only contemplated a repayment, not a loan to the Government.

Immediately on receiving this opinion, a note was addressed by the President to the Secretary of the Treasury, inquiring to what precise period, by legal interpretation of the Constitution, he could retain the bill in his possession, before it became a law by the lapse of ten days?

The reply was, that he had ten days, exclusive of that upon which the bill was delivered to him, and Sundays; and, that if it should be returned on the twenty-fifth, while Congress were sitting, it would be in time. The following day, Hamilton informed him, that the bill supplementary to that incorporating the Bank, had passed the House of Representatives, and would pass the Senate, if there were not studied delays, that there were only three or four objectors, among whom were Carroll and Monroe.

As the opposition to the Bank bill was founded, upon

principles which involved consequences vital to the future action of the Government, and to the prosperity of the United States; and, as its opponents denounced it, as a glaring violation of the Constitution, had it been disapproved by the Executive, the Federalists would have incurred all the odium of its support, and would have lost the influence derived from their known possession of the confidence of Washington.

Thus, considerations which would most affect the minds of the friends of the Government, inspired the deepest solicitude as to his decision. After giving to the subject the deliberation which its importance demanded, Washington signed the Act, on the morning of the twenty-fifth of February; being waited upon by Ellsworth, and soon after sent a message to the Senate, announcing his approval of it.* The motives of the opposition were further shown, on the third reading of the supplementary bill, in the Senate. A clause was first proposed, the object of which was to declare, that the term "law," in the original act, which required that the "by-laws of the incorporation shall not be contrary to law or the Constitution thereof," shall be construed to mean the laws of the Individual States, as well as of the United States. This was negatived.

An addition to the bill was then offered, to the effect, "that nothing in the original act, shall restrain the Legislature of the United States from repealing it, and abolishing the Corporation at any time, after the fourth of March eighteen hundred and two." This amendment was rejected, by a vote of seventeen to nine, Carroll of Maryland and the Senators from Virginia, the Carolinas, and Georgia, composing the minority.

* Madison stated, that, at the instance of Washington, he prepared the sketch of a veto, assigning the reasons for disapproving the bill, in case he should ultimately decide not to approve it.

It was subsequently deemed of moment to inquire more at large into the force of the arguments which had been used against the *expediency* of a National Bank. A view of this question exists among the papers of the Treasury Department. Having enumerated summarily the different advantages attending Banking institutions, as stated in the Report recommending the Bank, the objection is here considered, that there was no motive to establish a new Bank, since there were other institutions then in being. To this objection, the replies were given, that all these institutions rest on State foundations, and may cease to exist at the pleasure of their Legislatures;* and that it was neither compatible with the dignity nor interest of the United States, to suffer so important an engine of its administration to depend upon so precarious a tenure, and one so foreign from itself. Being mere local institutions, they cannot serve as engines of a general circulation—having neither sufficient capital nor enough of the confidence of all parts of the Union; but were rather objects of jealousy. They would be improper foundations on which to rest the security of the public revenue, by suffering their paper to be receivable in all payments to the public, for the want of an adequate capital, as their existence did not depend on the will of the United States; and as the Government of the Union had no inspection of their proceedings; and, consequently, no security for the prudent administration of their affairs. They were, also, too limited in their capitals, to afford such extensive aid to the United States as they may require in future emergencies. They might do well enough for an Indian War, but in a war with an European power, they could do nothing, adequate to the public necessity. Their Constitutions not having such precautions as are calculated to

* The Bank of North America was an instance of this.

guard against the abuses to which they are subject, they were in this light also insecure reliances for a National circulation.

It had been objected, that the duration of the Bank was too long, and contrary to precedent. The assertions on this point were controverted. The Banks of Venice, Genoa, Hamburgh, and Amsterdam, were understood to have an indefinite duration. That of England, had been limited to different periods under different circumstances. The assertion of Madison, that it was limited in its first creation to eleven years, is not well founded. It was incorporated for an indefinite period, but there was a right reserved to the Government, at the end of eleven years, to *pay off* the debt, which constituted its capital; and thereby to dissolve the Corporation. But it could not be dissolved; nor was it to cease in any other way.

Banks were not novel institutions. They had years of experience in their favor, in this country. They are necessary in countries little advanced in wealth, and have been found *very useful* in those of great wealth.

Where there are vast tracts of unimproved lands and few manufactures, there can be no abundance of specie; and this auxiliary circulation must be useful, and they are found useful at this day in Holland, England, and France, nations of the largest resources.

The relations of this Bank to the future are as easy to be comprehended as to the present. Its operations will be as useful, twenty years hence, as at the present moment.

Which may be the proper SEAT of its establishment may be a thing variable by time; but the time that can vary this, must evidently be more than twenty years.

It is manifest, that a large commercial city with a great deal of capital and business, must be the fittest seat

of the Bank. It is morally certain, that, for twenty years to come, Philadelphia will continue to have as good pretensions as any other of the principal trading cities.

And, as to the future seat of Government, it is morally impossible, that it can become, in less than twenty years, a place of sufficient trade and capital to be the principal scene of the operations of a National Bank. Governments must always act upon reasonable probabilities; and, in doing so, they can hardly fail to do right. The motives to a considerable duration were, to strengthen the inducements to men of property to embark in it, and to enhance the value of the public stock, by a prospect of greater advantage. It had produced that effect. It had operated upon the public debt like a charm. This effect would be greater or less, according to the prospect of advantage by its duration.

Its influence, by raising the value of the debt, on the credit of the Government was of immense importance; as no Government can be in credit whose bonds sell below their value. It established that credit; prevented the engrossment of the debt by foreigners at a low rate, thus saved the county from great loss, and from the prodigious distress of paying millions to foreigners for which they had given little or no value; and, but for its operation, the existence of such a debt would have been truly a curse. To surrender this essential object to speculative possibilities of a better arrangement of the Bank, in reference to future changes in the situation of this country would have been to sacrifice substance to shadow, reality to supposition.

It was also objected, that the advantages of the Bank would not be *equal* in all the United States. This would apply to almost every measure of Government. A law for the advancement of navigation will benefit most, those

States having most aptitude for navigation. The same thing may be observed as to a law for the encouragement of manufactures, or of particular objects of agriculture. What is the duty upon foreign cotton? A direct bounty upon the interests of a few of the States, as few can raise it.

That must be a good public measure which benefits all *parts* of a country, though some more than others. If all *gain*, the general mass of public prosperity is promoted, though some gain more than others. The operations of the proposed Bank will be most directly useful to the spot upon which they are carried on; but, by aiding general circulation and establishing a convenient medium of remittance and exchange between the States, all will be benefited in different degrees. If branches are established, the immediate benefit will be diffused still more extensively. It was also objected, that it would interfere with the State Banks. If both can go on together, both will promote industry. If it subverted them, it will be, because it is a better substitute; one which, to all the common advantages, will add this peculiar one, the affording a medium of circulation, which is useful in all the States, and not merely on the spot; and can, of course, be employed in the intercourse with other States. But, in fact, all this is an exaggerated supposition. It is not probable, except at the immediate seat of the Bank, where the competition will be compensated by obvious advantages, that there will be any interference. It can never be the interest of the National Bank to quarrel with the local institutions.

Its tendency, by the aids it will furnish to industry, ought to produce strong prepossessions in its favor, in all who consider the firm establishment of the National Government, as necessary to the safety and happiness of the

country; and who, at the same time, believe that it stands in need of additional props.

An instructive admonition of the evils of party delusion, is seen in the consequences which followed the assumed and narrow views of the objectors to the Bank, as to the powers of the Constitution.

Its charter expired in eighteen hundred and eleven, after a fruitless effort to renew it, the bill being lost in the Senate, by the casting vote of George Clinton, then Vice-President.

It then appeared, that, with a capital of ten millions of dollars, on which it paid to the stockholders average annual dividends of eight and three-eights per cent., it had furnished accommodations to the trade of the country to the annual amount of fifteen millions, besides very large and important accommodations to the Government; * that, by the activity and enterprise, chiefly stimulated by the active capital created by funding the debts —this activity greatly promoted by the Bank—the exports had risen from eighteen to seventy-three millions, with a proportionate increase of the tonnage.

The next year, war was declared against Great Britain; and, two years after, a bill to incorporate a National Bank passed by a majority of nearly four-fifths of the most numerous branch, and by a large vote of the other branch of Congress. Madison interposed his veto, on the ground, that its Constitution did not secure to the Government the aids it required; "that it could not be relied on during the War to provide a circulating medium, nor to furnish loans or anticipations of the public revenue." "*It will* commence and conduct its operations," he objected, "under an obligation to pay its notes in specie, or be

* The loans, within a certain period, to the United States, amounted to $6,200,000.

subject to a loss of its charter. *Without* such an obligation, the notes of the Bank, though not exchangeable for specie, yet resting on good pledges, and performing the uses of specie, would, as experience has ascertained, qualify the Bank to supply at once a circulating medium, and pecuniary aids to the Government."

The strong motives to the re-establishment of a National Bank were represented in a portrait of the condition of the country, by the then Secretary of the Treasury. "There exists at this time," Gallatin states, "no adequate circulating medium common to the citizens of the United States. The moneyed transactions of private life are at a stand; and the fiscal operations of the Government labor with extreme inconvenience.

"The establishment of a National Institution operating upon credit, combined with capital, and regulated by prudence and good faith, is, after all, the *only efficient remedy* for the disordered condition of our circulating medium. It will be a safe depository for the public treasure, and a constant auxiliary to the public credit."

Influenced by these considerations, Madison, familiar with the motives of the opposition to the first Bank, pointed the attention of Congress to a National Bank; and, after the State Banks had produced this derangement of the currency, stated, if neither they nor a National Bank should be deemed effectual to restore it, the probable necessity of issuing "*notes of the Government as a common medium of circulation.*"

A report was then made by the head of the Treasury Department, claiming to the National Government the exclusive right of coining money, of regulating the coins in circulation, and of emitting bills of credit, as a necessary implication from positive provisions of the Constitution; stating that, by omitting to exercise the power of

creating a National Bank, the legal currency of the nation had been superseded by the depreciated paper of the State banks; the impracticability and the doubtful policy of an attempt to create a metallic currency; the failure of repeated attempts, by means of Treasury issues, and State banks, to restore an uniform circulation; and recommending a National Bank, as the best and perhaps the only adequate, "source of relief."

A Bank was then proposed with a capital of thirty-five millions, nearly four times as large as that of the first bank, with power to augment it to fifty millions; payable one-fourth in specie, and three-fourths in funded debt;* to be wielded by a direction, one-fifth of whom, including its President, were to be appointed by the President of the United States, with a control over the branches, for a term of twenty-one years; and with an express reservation of a *qualified power*, under the authority of the Government to *suspend specie payments!*

After a strenuous and successful effort by the Federalists, to expunge the clause authorizing a suspension of specie payments; and to insert a clause, compelling them; and after their failure so to modify the bill, as to exclude the Government from all participation in its management, it passed Congress, and received the sanction of Madison.

* The combination of the public debt with the specie capital in Hamilton's plan, was objected to by Madison, in his "Political Observations."

NOTE.

The Report of a Committee of the House of Representatives, April 13, 1819, states, as consequences of the want of a National Bank, that the local currency had depreciated from 10 to 25 per cent.; that the Government had lost, from the disorders which intervened between the expiration of the old charter, and the creation of the new bank, forty-six millions of dollars; that previously, it had enjoyed a currency equal to that of any country in the world, and much better than that of any other of equal geographical extent; and that its domestic

exchanges had been nearly equalized throughout its whole extent. The withdrawal of a foreign capital of seven millions of dollars, was one of the causes of the distress which followed the expiration of the first bank charter. A nearly equal sum in specie was imported soon after the second bank was established. Within nineteen years from 1811, one hundred and thirty-five State banks failed, having a total chartered capital of about twenty-five millions. Nor have repeated subsequent admonitions been wanting, of the dangers and evils of independent, uncontrolled, incorporated State Banks; since, exceeding in number, *fourteen hundred.*

CHAPTER LXV.

The day on which the supplementary Bank bill passed the Senate, a resolution was adopted by it, requesting the President, "to cause a communication to be made to the National Assembly of France, respecting the late Benjamin Franklin."

This distinguished American died on the twentieth of April, seventeen hundred and ninety. On the annunciation of this event, that body resolved to wear mourning, as a testimonial of their respect for his memory; and ordered a letter of condolence to be addressed to Congress. The grateful office of paying a national tribute to one, whose career is full of interest and of instruction, was confided by the President to Hamilton.

The letter, to be signed by Washington, was in the following terms:*—"Sir, I received with particular satisfaction, and took an early opportunity of imparting to Congress, the communication made by your letter of the twentieth of June last, in the name of the National Assembly of France. So peculiar and so signal an expression of the esteem of that respectable body, for a citizen of the United States, whose eminent and patriotic services are indelibly engraved on the minds of his countrymen, cannot fail to be appreciated by them, as it ought

* January, 27, 1791.

to be. On my part, I assure you, Sir, that I am sensible of all its value.

"The circumstances which, under the patronage of a monarch, who has proved himself to be the friend of the people over whom he reigns, have promised the blessings of liberty to the French nation, could not have been uninteresting to the free citizens of the United States; especially, when they recollected the dispositions which were manifested by the individuals, as well as by the Government of that nation, towards their still recent exertions in support of their own rights.

"It is, with real pleasure, Sir, that I embrace the opportunity now afforded me of testifying, through you, to the National Assembly, the sincere, cordial and earnest wish I entertain, that their labors may speedily issue in the firm establishment of a Constitution, which, by wisely conciliating the indispensable principles of public order, with the enjoyment and exercise of the essential rights of man, shall perpetuate the freedom and happiness of the people of France.

"The impressions naturally produced by similarity of political sentiment, are justly to be regarded as causes of national sympathy, calculated to confirm the amicable ties which may otherwise subsist among nations. This reflection, independent of its more particular reference, must dispose every benevolent mind to unite in the wish, that a general diffusion of the true principles of liberty, assimilating as well as ameliorating the condition of mankind, and fostering the maxims of an ingenuous and virtuous policy, may tend to strengthen the fraternity of the human race, to assuage the jealousies and animosities of its various subdivisions, and to convince them more and more, that their true interests and felicity will best

be promoted by mutual good will, and universal harmony.

"The friendship to which you allude, in the close of your letter, has caused me to perceive with particular pleasure, that one,* who had endeared himself to this country by his ardent zeal and useful efforts in the cause of liberty has, by the same titles, acquired the confidence and affection of his own. May it ever be his chief aim to continue to be beloved, as one of her most virtuous and most faithful citizens.

"I beg you, Sir, to accept my acknowledgments for the sentiments in your letter, which relate more particularly to myself; and, at the same time, to be assured of the most perfect consideration on my part."

One of the great objects of the institution of a National Bank is seen to have been the establishment of an uniform circulating medium upon a specie basis.

Previous to the Revolution, the very limited metallic currency of the Anglo-American colonies consisted, of the silver which passed thither from Mexico and the Southern part of this Continent through the West Indies; together with the returns for the non-enumerated commodities shipped to the foreign markets in the South of Europe; to which, from a jealous desire to secure a monopoly to the manufactures of Great Britain, the trade of her Colonies was restricted.

From the course of the direct commerce with England, they were largely indebted to her; and, instead of receiving coin from the parent nation, there was a continual drain of it. Hence, the amount of silver in circulation was much below the wants of the people of America; while gold (which prompted its discovery and settlement) was rarely seen.

* La Fayette.

In consequence of the non-importation agreements previous to the war, and of the cessation of the direct trade with the mother country, after the severance of the Empire, the specie capital was, for a short time, increased. This soon disappeared before a gross and vicious paper circulation; which, ceasing to perform its intended office, rendered the importation of specie from Cuba an object of great necessity, and large profit. From this source, and from the remittances in coin, by France, the deficient circulation was in some measure supplied.

The moment that the Continental paper issues ceased to circulate, and the Congress of the Confederation were compelled to adopt a specie standard, the necessity of regulating the value of the coin became obvious; either to prevent fraud, to introduce an uniform money of account, to facilitate the exchanges, or to fix a legal tender. The inducements to this were increased by the discovery of the fact, that the dollars, which were the principal coins in circulation, were leaving the country, in exchange for light gold.

Deriding as "chimerical," the idea that "it would be beneficial to abolish all paper, and depend altogether upon specie for commerce and finance," Hamilton is observed, as early as seventeen hundred and eighty-one, urging upon Congress the exercise of "the privilege of coining." Influenced by this suggestion, instructions were given to the Superintendent of Finance, on the seventh of January of the next year, to prepare a table of rates, at which the coins in circulation should be received at the Treasury. This resolution called forth from that officer an elaborate reply, touching upon many of the leading considerations involved in the adoption of a monetary system. It proposed the creation of a Mint; and that there should be

one money standard, affixed to a silver coin. Another communication gave the draft of an act, establishing the rates of value for the coins of England, France, Spain, Portugal and Holland; and, at which all foreign gold should be estimated. No measures being taken on this subject, Hamilton, it is seen, in the succeeding year, from his seat in Congress, pressed upon that officer the establishment of a "National coinage."

The imbecile counsels of the Confederacy prevented the adoption of this measure; but, two years after, a resolution passed,* declaring that "the money unit should be one dollar; that the smallest coin should be of copper, two hundred to a dollar, and that the several intermediate pieces should increase in a decimal ratio."†

The Board of Treasury recommended, the next year, a money standard, and a decimal money of account, which were established; and a Mint.

Under the Confederation, though Congress had the sole power of regulating the alloy and value of the coins,

* July 6, 1785.

† In American State Papers, Finance, vol. 1, 103, is found a proposition for a decimal ratio—the source not stated. The lowest denomination to be one twenty-seventh part of a penny sterling. Its advantages were stated to be, its easy adjustment with the existing currency of the States; its banishment of other currencies; the minuteness of its lowest denomination as an accurate measure of the smallest variations of quality or quantity; and its decimal proportion. It suggested *five* coins: a gold piece equal to ten dollars; a dollar; a tenpence; a penny; and a quarter of a grain of fine silver—that to be the *unit*. In page 105, do. is a paper of Jefferson's, entitled "Notes on the establishment of a Money Mint and of a Coinage for the United States." In an original letter from him to Robert Morris, found among the Hamilton manuscripts, there is an application for his report to Congress, which, it states, is not on file; and a letter from Gouverneur Morris on the same subject is mentioned. These letters propose *four* coins; omitting the smallest coin specified in the document previously mentioned, of which Gouverneur Morris is believed to be the author.

the right of coining was concurrent in the Union, and in the particular States, by some of which it had been exercised. The Constitution of the United States, expressly prohibited the States from coining; and intrusted this power and duty to the National Government.

Hamilton seized the earliest opportunity of presenting this subject to consideration; and, in the first speech of the President, after he became a member of the Cabinet, "an uniform currency" was recommended. Each day's experience of the department of the Treasury, the more indicated its "great importance."

The incorporation of the Bank rendered it of still more urgent moment; and, in anticipation of that event, he prepared a Report, "ON THE ESTABLISHMENT OF A MINT."

This Report was submitted to Congress on the twenty-eighth of January, seventeen hundred and ninety-one. After alluding to "the great variety of considerations, nice, intricate, and important, involved in the subject; the general state of debtor and creditor; all the relations and consequences of price; the essential interests of trade and industry; the value of all property, the whole income both of the State and of individuals;" this Report adverts to the difficulty of the right adjustment of a matter, which had frequently occupied the reflections and researches of politicians, without having harmonized their opinions on several of its most important principles, producing different systems, in theory, and practice. The immense disorder which reigned on this subject, he stated, called loudly for a reform.

"The dollar, originally contemplated in the transactions of this country, by successive diminutions of its weight and fineness, had depreciated five per cent.; and,

yet, the new dollar had a currency in place of the old, with scarcely any attention to the difference between them." "Nor would it require," he observed, "any argument to prove, that a nation ought not to suffer the value of the property of its citizens to fluctuate with the fluctuations of a Foreign Mint, and to change with the changes in the regulations of a Foreign Sovereign." After expressing the diffidence, which the difficulty of the subject inspired; and which difficulty he hoped he might be permitted to rely upon, as some excuse for any errors which might be chargeable upon it, or for any deviations from sounder principles, which may have been suggested by others, or even in part acted upon by the former Government of the United States; Hamilton stated, as the points to be discussed—the inquiry, what ought to be the nature of the Money Unit?—the proportion between gold and silver, if coins of both metals were to be established—the proportion and composition of alloy in each kind—whether the expense of the coinage should be defrayed by the Government, or out of the material itself—the number, denominations, sizes, and devices of the coins—and, whether, foreign coins should be permitted to be current or not; if permitted, at what rate, and for what period?

"As to the first point—the money unit," he observed, "the first inquiry is, what it actually is? The pound, though of various value, was the actual unit of the money of account; but the manner of adjusting foreign exchanges indicated, that the dollar was best entitled to be considered as the unit of the coins. Of the different dollars, that in actual circulation, he thought, was to be regarded as the actual money unit, rather than the ancient dollar; a conclusion, strengthened by the fact, that it was

more conformable to the true existing proportion between the two metals in this country, and to that which obtains in the commercial world generally."

An investigation as to the existing proportion between gold and silver, gave no precise definition of the present unit; but furnished data, from which it was ascertained.* In determining what ought to be the future money unit, he suggested, whether it ought to be peculiarly attached to either of the metals, in preference to the other, or not; and, if to either, to which of them. The Resolutions of the old Congress showed, that, operatively, the unit was not attached to either coin. Contrary to the ideas which had previously prevailed, he proposed, that no preference should be given to either, though if there was, it ought to be to gold, rather than to silver, from the various circumstances mentioned, as tending to give it greater stability. The principal reason against such preference, was, that attaching the unit to either of the metals, would destroy the office of the other as money; reduce it to a mere merchandise; and diminish the quantity of circulating medium; thus diminishing the utility of one of the metals. In this view, the next inquiry was, as to the proportion which should subsist between the two metals—a question of great moment, both from the consequence that an overvaluation of one would tend to banish the other; and because it would produce a diminution of the total quantity of specie the country would possess, though the latter conclusion, from various local and particular circumstances, he thought, was to be received with caution. The effect of an overvaluation, to produce a greater and more frequent disturbance of the state of the money unit, by a greater and more frequent

* "The sum in the money of account of each State, corresponding with the nominal value in such State, corresponded also with 24 6-8 grains of fine gold, and, with something between 368 and 374 grains of pure silver."

diversity between the legal and market proportion of the metals, is not overlooked.

In establishing this proportion, having in view the commercial relations of this country with Great Britain, and the payments of interest to be made in Holland; he thought, that the commercial proportion, existing in those countries, ought to be preserved here.*

The continuance of an alloy was recommended by the existing usages of other nations; and the proportion advised by the old Congress, of one part of alloy to eleven fine, was deemed a convenient rule in regard to both metals; thus producing a desirable uniformity. The composition in the gold coins was to be, an union of silver with copper, not to exceed one-half, nor to be less than a third part.

The question of seignorage is examined at length, and the conclusion is arrived at, that, a *small* difference between the value of the coin and the mint price of bullion, is the least exceptionable expedient for restraining the melting down or exportation of the former. He advised, the experiment of a charge of one-half per cent. on each of the metals.

The general conclusion from these inquiries is, that the Unit ought to correspond with twenty-four and three-quarter grains of pure gold; and, with three hundred and seventy-one and a quarter grains of pure silver, each answering to a dollar, in the money of account; the former being exactly agreeable to the present value of gold; and the latter within a small fraction of the mean of the two last emissions of dollars; the alloy to be one-twelfth of the whole, making the Unit twenty-seven grains of standard gold, and four hundred and five grains of standard silver. The decimal subdivisions he approved, as the

* 14 and 4-5ths, or 15 to 1.

most "simple and convenient," taking the dollar as the Unit in the money of account, with its multiples. Six coins are proposed: one gold piece equal, in weight or value to ten units or dollars; one gold piece, equal to a tenth part of the former, to be the gold unit or dollar; one silver piece to be a unit or dollar; one silver piece, the tenth of a silver dollar; one copper piece, the one-hundredth of a dollar; and another, of half the value of the former.

The lighter gold piece was not to be numerously issued; but, merely in order to have a sensible object in that metal, as well as in silver, to express the Unit.* As to the copper coin, he remarked: "Pieces of very small value are a great accommodation, and the means of a beneficial economy to the poor, by enabling them to purchase in small portions, and at a more reasonable rate, the necessaries of which they stand in need. To enable them to procure necessaries cheap, is to enable them, with more comfort to themselves, to labor for less."

As to the *denomination*, that of dollars and cents is approved; instead of "dimes," he would have substituted tenths, as a more familiar term, and more easily introduced. Suggestions are also made as to the volume of each piece; and, as to the devices, which, he observed, to render them "vehicles of useful impressions, should be emblematical, without losing sight of simplicity."

A gradual abolition of the foreign coins was advised; and, with this view, a recoinage of the money received at the Treasury; thus gradually to supply the circulation, throw a considerable portion of the loss on the Government, and tend to distribute the remainder of the foreign coins more equally among the community.

* In the Mexican coinage there is a piece of this denomination, and, very recently, in that of the United States.

With respect to a suggestion of the Secretary of State, that the weight of the dollar should correspond with the unit of weight, Hamilton observed, that a small alteration, in order to incorporate so systematic an idea, would appear desirable; but, that it would require an addition to the proper weight of the dollar, without a proportional augmentation of its value; to make which, would defeat the object of having the new dollar received, as a substitute for that in circulation. This end might have been obtained, by increasing the proportion of the alloy in the silver coins; but that would destroy the uniformity, in that respect, between the gold and silver coins. It was, therefore, left for Congress to elect, which of the two systematic ideas were to be pursued or relinquished, it being remarked, that it will be more easy to convert the present silver coins into the proposed coins, if the last have the same or nearly the same proportion of alloy, than if they have less.

This Report concluded with a plan for the organization of a MINT; and the suggestion of a remedy for errors committed in the process of coining.

On the second of March, a Committee of the Senate, to which it had been referred, reported a resolution for the establishment of a MINT. This Resolution passed the Senate; and was concurred in by the House of Representatives, by a majority of only four votes.

Having previously passed acts for the admission of the frontier States of Vermont and Kentucky into the Union; and having enacted a law adding a regiment to the Military establishment; and authorizing the employment of the militia, or a limited number of *levies*, for the protection of the frontier; on the following day, the first Congress under the present Government adjourned, its constitutional term having expired.

So close a vote on such a subject as the institution of a Mint, one of a nature so little calculated to enlist feeling, might be imputed to the systematic action of a party, resolved to defeat every proposition emanating from the Secretary of the Treasury; but it may be ascribed to another motive. The reputation Hamilton had derived from his official reports, stimulated Jefferson to seek distinction from a similar source.

Having, while in the Congress of the Confederation, taken a part in the debates relating to the money standard; and having been informed, while in France, of the speculative discussions there, as to an invariable standard of weights and measures; he regarded these as subjects from which he might acquire distinction. Though, according to the previous practice of the Confederation, and from their connection with the finances, these subjects properly belonged to the Treasury Department; the friends of Jefferson introduced a Resolution, which was not opposed, directing him to report a proper plan for establishing uniformity in the currency, weights, and measures of the United States. His report was submitted to Congress during its second session.

To the uninformed, this report may have given the impression of much science and extensive research; but it, in fact, had no title to respect. The proper object of a Statesman was, to ascertain the existing CURRENCY, WEIGHTS, and MEASURES of this country; and, to establish a standard of the two former, most in conformity with its prevailing use, and inducing the least possible innovation. As to MEASURES, the purpose of the reference would have been accomplished, by causing a determinate standard to be made and preserved, to which access could be had.

Instead of taking this course, Jefferson entered into a

large discussion of the means of obtaining an *invariable* standard; and having selected an iron pendulum,* of specified dimensions, he applied it to measures of capacity, and to weights.

But this pendulum, he admitted, was liable to uncertainties, for which he suggested no reliable correctives. The Committee of the Senate, to whom his Report was referred saw the fallacy of his propositions; and reported that it was not eligible to alter the weights and measures then in use, until a proposition made by France for obtaining an invariable standard, communicable to all nations, shall have been carried into effect.

As to the CURRENCY, he contemplated a new coinage for the United States, of a *different* value from the current dollars. He proposed, that the weight of the dollar should cor-

* He states, that there does not exist in nature, a single subject or species of subject, accessible to man, which presents one constant and uniform dimension; owing to the contraction and expansion occasioned by change of temperature. That, iron is the least expansible, and the expansion of a pendulum of 58.7 inches is said to be from 200 to 300 parts of an inch. But, though so small a part of this metal is *so much* affected by temperature; yet he observed, that the earth might be considered as *invariable in all its dimensions*, and that its circumference would furnish an *invariable measure*. The influences of heat and attraction upon so large a body as the globe, variously composed as it is, were disregarded. He also remarked, that the trials to measure portions of a circle of the globe, showed, that there is no dependence on that operation for certainty. How then could the whole circumference be taken as an *invariable* measure? He had followed the opinion of French inquirers. They, sometime after, changed it, and took a section of a meridian for their standard. His pendulum was to vibrate in the "level of the ocean;" and "in a cellar or other place," of invariable temperature. Notwithstanding this search after perfect accuracy, he does not define, which level of the ocean he contemplated, various as they are; nor did he define the exact temperature of the cellar, or other place of vibration; much as they differ in that respect. To correct the pendulum, he proposed to refer to a clock. Thus the "invariable standard" would depend on the accuracy of a "*clock*." His application of it was equally vague.

respond with the unit of weight; and, "would have effected this," by "the addition of five grains of silver to the proper weight of the dollar, without a proportional augmentation of its legal value." * Hamilton had approved such a correspondence of units when proposed to him by Jefferson, to be made by a "very small alteration of the money unit." But, of so considerable a change, the consequences would have been of a serious character. They would have been, "to have abandoned the advantage of preserving the identity of the dollar, or of having the proposed one received and considered as a mere substitute for the present," and would have compelled every debtor in the Union to pay more, in discharge of his subsisting contracts, than he had stipulated. The first of these consequences was indicated in the Report made by the Secretary of the Treasury. The other, from delicacy to its author, was not exposed.

Hamilton's system was adopted. As it was a subject upon which they had entertained different opinions, he sent his Report to the Secretary of State, previous to its being submitted to Congress; and received the following reply—"Dear sir, I return you the Report on the Mint, which I have read with great satisfaction. I concur with you in thinking, that the Unit must stand on both metals; that the alloy should be the same in both; also, in the proportion you establish between the value of the two metals. As to the question on whom the expense of coinage is to fall, I have been so little able to make up an opinion satisfactory to myself, as to be ready to concur in either decision. With respect to the dollar, it must be admitted by

* Condorcet, on the 19th July, 1791, wrote Jefferson on this subject, enclosing to him a Report of the Academy of Sciences as to the determination of a Unit of Measure; also a synopsis of a system of equalization of Weights and Measures, by Geo. Skene Keith.

all the world, that there is great uncertainty in the meaning of the term; and therefore all the world would have justified Congress for their first act of removing the uncertainty, by declaring, what they understood by the term; but, the uncertainty once removed, exists no longer; and I *very much doubt a right now to change the value*, and especially to lessen it. It would lead to so easy a mode of paying off their debts; besides, the parties injured by this reduction of the value would have so much matter to urge in support of the first point of fixation.

Should it be thought, however, that Congress may reduce the value of the dollar, I should then be for adopting for our Unit, instead of the dollar, either one ounce of pure silver, or one ounce of standard silver, so as to keep the unit of money a part of the system of measures, weights and coins. I hazard these thoughts to you, extempore, and am, dear sir, respectfully and affectionately. I enclose two letters just received from France." *

Notwithstanding this explicit approval, it will be seen, that his party in the House of Representatives made an united opposition to the plan of the Secretary of the Treasury. It has been stated that his plan was adopted. It was so, except in a few unimportant particulars; and, during nearly half a century, its principles have governed the policy of this nation. A recent legislative change in the proportion of the value of the coins has produced a gross error; obviously incident to the impracticable attempt of arbitrarily increasing, except for a short period, the amount of the metallic currency of a commercial country.

Before the narrative of the proceedings of this important Congress is closed, one topic of great moment, which

* January 1791.

was presented to it, but postponed, should be adverted to. Both Washington and Hamilton were sensible of the imperfections of the Judiciary Department; and in the last speech of the President to Congress, it was submitted to their wisdom, "whether improvements in that system may yet be made."

This subject was brought before the House, by Benson, two days before the end of its third session. His views were embodied in a series of propositions for the amendment of the Constitution, which were not acted upon.

The result of Hamilton's fiscal measures, although a period of little more than eighteen months had elapsed since the first of them began to operate, and, though, some of the more important of them were of recent date, is seen in the condition of the United States, at this time.

While the restrictions of the great powers of Europe prevented the natural expansion of trade with them, and with their dependencies; American enterprise, strong in the new capital which the funding of the Debt had produced, was overcoming the disadvantages of an indirect intercourse. The coasting trade, exempted from State regulations, had begun to assume its due importance; and the recently opened commerce with India and China, repaying the favors that had been granted to it, was pouring in its tributes. The exports, for less than a year, already exceeded twenty millions of dollars.

Notwithstanding the large increase of imported fabrics, the domestic manufactures were progressive. The great Agricultural interest was highly prosperous. The waste lands in the interior were being rapidly settled. Towns were springing up in every direction. The seaports were increasing in wealth and population, and that great career

of internal improvement, by numerous highways, with which the United States have amazed the world, was begun.

Private Credit was fast reviving, Public Credit was restored, and the Revenue was steadily augmenting, from moderate impositions. "The Bank and the United States Government," the eloquent, disinterested Ames wrote Hamilton, "at this time, possess more popularity than any institution or Government can maintain for a long time." * * * "The success of the Government, and especially of the measures proceeding from your department, has astonished the multitude; and, while it has shut the mouths, it has stung the envious hearts of the State leaders. All the influence of the moneyed men ought to be wrapped up in the Union and in one bank."*

Thus, at home were confidence and prosperity; and Hamilton wrote to Washington, "All my accounts from Europe, both private and official, concur in proving, that the impressions now entertained of our Government and its affairs (I may say) *throughout* that quarter of the globe, are of a nature the most flattering and pleasing."

Such were the large and early blessings which the Constitution, wisely administered, had conferred upon the industry of a people, now known and feeling themselves to be, ONE NATION.

Cheered by this result, Hamilton proceeded to the execution of the laws recently passed, relating to the Department of the Treasury.

The hostility evinced to the system of internal revenue rendered the arrangement of its details, and the selection of the officers, who were to be entrusted with its execution, matters of great moment.

* July 31, 1791.

The collection of the duty on domestic spirits was by the act, framed by the Secretary of the Treasury, confided to "Supervisors of Districts," and "Inspectors of Surveys." The United States were divided into fourteen Districts, of which each State was one. These Districts were subdivided into Surveys. In all cases where the duty could be performed by one officer, the Supervisor was authorized to act as Inspector. A small salary was given to each officer, who was also entitled to receive a fixed commission on the net product of the duties collected. The whole number of officers appointed under the act, was thirty-five. In addition to whom, the Supervisor was authorized to appoint Collectors of the internal revenue, with fixed salaries for each district.

The collection of the Excise at the ports of entry, was confided to the Collector or Surveyor of the port; and, in those ports where there was no such officer, it was placed under the inspection of the Collector or Surveyor of the district to which those ports belonged. As the increased duties imposed on these officers by this act were analogous to those which they were accustomed to perform, no extra compensation was assigned to them.

The appointment of these officers was directed to be made by the President; and, as to such as had not been made during the session of Congress, special authority was given to him, by law, to appoint them, in the recess. The correspondence of Hamilton shows, that, in the selection of the persons to perform these duties, the greatest vigilance was exercised.

The act establishing the Bank of the United States directed the subscriptions to the stock to be opened, on a designated day, under the superintendence of Commissioners, to be appointed by the President.

As the great object of the Secretary of the Treasury was, to confide the trusts held under this charter to the interests of the individuals who should subscribe to it; the only duty imposed on that officer was, the examination of weekly statements of the condition of the Bank, which were directed to be rendered by him; he being empowered to inspect its general accounts, in relation to those statements.

One of the principal topics of clamor by the opposition, was the influence exercised by him over its administration. The following extract of a letter, addressed by Hamilton to the Cashier of the Bank of New York, a person who possessed and fully merited his confidence, will show with how little justice this charge was made.

The Directors of the parent bank were, by its charter, authorized to establish offices of discount and deposit. On this subject, Hamilton remarks: "Strange as it may appear to you, it is not more strange than true, that the whole affair of branches was *begun, continued,* and *ended,* not only without my participation, but *against my judgment.* When I say against my judgment, you will not understand that my opinion was given and overruled; for I never was *consulted;* but, that the steps were contrary to my private opinion of the course which ought to have been pursued. I am sensible of the inconveniences to be apprehended, and I regret them, but I do not know that it will be in my power to avert them."

The inconveniences of which he here expressed his apprehension soon followed, and show his just perception of the pecuniary condition of the country. The expedients suggested, and the efforts made by him to give relief, furnished strong evidences of the fertility of his genius, of his energy, and his benevolence.

Among the charges brought against the financial sys-

tem, a principal one was, the application of the public moneys, through the medium of the Sinking fund, to the purchase of the public securities; when, had an adequate provision been made for the debt, the public creditors would not have incurred loss.

Hamilton foresaw and urged in his reports, that the beneficial effect of the purchases of the debt by the Government, would accomplish more for the creditors in a few months, than they had anticipated in years.

The advanced price of the debt in the home market has been previously stated. The beneficial effects of his system were not less apparent in that of foreign countries. An intelligent correspondent in London states, "The American funds had inspired no confidence in this market till they had acquired a high price at home; and, three months ago, a sale of them must have been effected here with the greatest difficulty."

General Miranda wrote: "I can assure you, that your financial plans, your National Bank, your collection of taxes, not only have commanded the admiration of persons of the first consideration here, but they have given the highest idea of the new Government; which conducts itself, in this respect, by principles of honor and of dignity not common in modern Governments. I congratulate you, with all my heart, while I see the rapid progress of your institutions, producing the general prosperity of your fortunate country, and your lasting happiness, which must be its unfailing reward."

The cheering aspect of the public affairs is also alluded to in a letter* from Hamilton to his friend Goodhue, a distinguished member of Congress from Massachusetts. "It must have given you pleasure to learn how much

* June 30, 1791.

the Constitution of the United States, and the measures under it, in which you have had so considerable an agency, have contributed to raise the country in the estimation of Europe. According to the accounts which have been received here, the change which has been wrought in the opinion of that part of the world, respecting the United States, is almost wonderful. The British Cabinet wish to be thought disposed to enter into amicable and liberal arrangements with us. They had appointed Mr. Elliott, who, on private considerations, had declined; and, it is affirmed, from pretty good, though not *decisive* authority, that they have substituted a Mr. Hammond; and that his arrival may shortly be expected. I would not warrant the issue; but, if some liberal arrangement with Great Britain should ensue, it will have a prodigious effect upon the conduct of some other parts of Europe. 'Tis, however, most wise for us, to depend as little as possible upon European caprice; and to exert ourselves to the utmost to unfold and improve every domestic resource. In all appearance, the subscriptions to the Bank of the United States will proceed with astonishing rapidity. It will not be surprising, if a week completes them."

The high state of American credit in Europe, is shown by a fact more expressive than general representation. A loan of two and a half millions of florins opened in Holland, on the fifteenth of February, seventeen hundred and ninety-one, was filled in two hours, upon terms better than those obtained by any European power, with one exception. A similar evidence of public confidence was manifested in relation to the Bank of the United States; the subscriptions to which were filled in a single day; leaving a large number of unsatisfied applicants. Among the subscribers were the States of New York and New Hampshire.

The benefits of the application of the Sinking fund to the purchase of the debt, were seen in the favorable state of the National credit. The private correspondence of Hamilton shows them in another light, of much interest.

Extravagant speculation is an unavoidable incident to the sudden advance of the credit of a nation. It is, also, one of its most dangerous concomitants. The immense demand for the stock of the National Bank gave that stock an artificial value, which was increased by time contracts. The profits thus acquired, excited the imaginations of the people; and their legitimate pursuits were relinquished for a species of gambling as delusive as it was destructive of moral principle. The individuals who were concerned in these schemes, possessing a great share of influence in the local Banks, excessive issues of paper were made to accommodate their wants. As the prices rose rapidly, large differences of value were produced. The contracts were not fulfilled. A panic followed, and the bubble burst. So extensive had been these operations, in a community of little active wealth, that a widespread scene of ruin followed; leaving an impression which rendered the period of Bank script little less memorable in the early history of the United States, than was that, in Europe, of the bold projector, "LAW."

One cause of this excessive speculation was the recent creation of a new Bank by the State of New York.

Hamilton foresaw the dangers of this abuse of the Credit system, and thus wrote to the Cashier of the Bank of New York:* "I have learned, with infinite pain, the circumstance of a new Bank started up in your city. These extravagant sallies of speculation do injury to the Government, and to the whole system of public credit, by dis-

* January 18, 1791.

gusting all sober citizens, and giving a wild air to every thing. It is impossible, but that three great Banks in one city, must raise such a mass of artificial credit, as must endanger every one of them, and do harm in every view. I sincerely hope, that the Bank of New York will listen to no coalition with this newly engendered monster. A better alliance, I am strongly persuaded, will be brought about for it; and the joint force of two solid institutions will, without effort or violence, remove the excrescence which has just appeared; and which, I consider, as a dangerous tumor in your political and commercial economy. I express myself in these *strong terms* to you, confidentially; not that I have any objection to my opinion being known, as to the nature and tendency * of the thing."

The letters addressed to him from New York, at this time, are full of apprehension. "Heaven only knows what will be the result of all this confusion. Suspicion increases, and every man feels afraid of his neighbor"—is the language of Schuyler. "The whole community are madly speculating," observed King. "Duer has been injured in being supposed to have been particularly engaged to receive the Bank stock—his conduct has been as correct as any buyer's or seller's could be."

In a letter to the individual here mentioned, Hamilton observed: "As to myself, my friend, I think I know you too well to suppose you capable of such views as were implied in these inuendoes; or to harbor the most distant thought, that you could wander from the path, either of public good or private integrity. But, I will honestly own, I had serious fears for you, for your *purse* and for your *reputation;* and, with an anxiety for both, I wrote to you in earnest terms. You are sanguine, my friend,

* Hamilton's Works, iv. 217.

you ought to be aware of it yourself, and to be on your guard against the propensity. I feared, lest it might carry you further than was consistent either with your own safety or the public good. My friendship for you, and my concern for the public cause, were both alarmed. If the infatuation had continued progressive, and any extensive mischiefs had ensued, you would certainly have had a large portion of the blame. Conscious of this, I wrote you in all the earnestness of apprehensive friendship."

The apprehension was well founded—Duer failed. Hamilton thus conveyed to him his condolence:* "My dear Duer, I am affected beyond measure at the contents of your letter. Act with *fortitude* and *honor*. If you cannot reasonably hope for a favorable extrication, do not plunge deeper. Have the courage to make a full stop. Take all the care you can, in the first place, of institutions of public utility; and, in the next, of all fair creditors. God bless you, and take care of you and your family. I have experienced all the bitterness of soul, on your account, which a warm attachment can inspire. I will not pain you with any wise remarks, though, if you recover the present stroke, I shall take great liberties with you. Assure yourself, in good or bad fortune, of my sincere friendship and affection."

He soon after again wrote to him, stating that the protracted sitting of Congress prevented his seeing him, and closed—"How are you; how are your family? At a moment of composure, I shall be glad to hear from you." When this moment arrived, Hamilton addressed to him the following advice:† "My dear Duer, five minutes ago, I received your letter of yesterday. I hasten to express to you my thoughts, as your situation does not permit

* March 14, 1792. † May 23.

delay. I am of opinion, that those friends who have lent you their money or security from personal confidence in your honor, and without being interested in the operations, in which you may have been engaged, ought to be taken care of absolutely, and preferably to all other creditors. In the next place, public institutions ought to be secured. On this point, the manufacturing society will claim peculiar regard. I am told, the funds of that society have been drawn out of both Banks; I trust they are not diverted. The public interest and my reputation are deeply concerned in this matter. Your affairs with the Government, as connected with your office as assistant to the Board of Treasury, will deserve your particular attention. Persons, of whom you have made actual *purchases*, and whose property has been delivered to you, would stand next after public institutions. But here perhaps some arbitration may be made. It would certainly be desirable to distinguish between the price of the stock at the time of purchase, and its enhanced price upon time. With regard to contracts, merely *executory*, and in regard to which differences would be to be paid, no stock having been delivered, I postpone claims of this nature to all others. They ought not to interfere with any claim, which is founded on value actually given. As to the usurious tribe; these present themselves under different aspects—are these *women* or *ignorant* people; or trustees of infants? The real principal advanced and legal interest would, in such cases, stand, in my mind, on high ground. The mere veteran *usurers* may be taken greater liberties with. Their real *principal* and *interest*, however abstracted from usurious accumulation, would stand better, than claims constituted wholly by profits from speculative bargains.

"But the following course deserves consideration.

Take care of debts to friends, who have aided you by their money or credit disinterestedly; and public institutions. Assign the rest of your property for the benefit of creditors generally. The law will do the rest. Whenever usury can be proved, the contract, I take it, will be null —where it cannot be proved, the parties will be obliged to acknowledge on oath; and *then* their *principal* and *interest only will be due.* Wherever a fair account can be stated, and all the sums borrowed and paid can be set against each other, it is probable, it will be found, that more has been paid than on a computation of legal interest was ever received. Here, I presume the demand would be extinguished; and possibly, the parties would be compelled to disgorge. These are, rather, desultory thoughts than a systematic view of the subject. I wish, I had more time to form a more digested opinion, but as I have not, you must take what I can give. Adieu, my unfortunate friend. God bless you and extricate you with reputation—again adieu. Be honorable, calm, and firm."

His creditors threw Duer into prison, where Hamilton aided him with his purse; and used every mean to obtain his release.

The narrative of these incidents is necessary to prove the falsity of the aspersions cast by the opposition upon Hamilton, as being connected with Duer in his speculations; to show his primary regard, on all occasions, to the interests of the public; and the warmth of his affections.

To obviate the evils produced by this mania, was an office, delicate, difficult and important. In the outset, he deemed it unwise to interfere. Soon after, as the evil grew, he addressed confidential letters to his most cautious and scrupulous friends, urging the indispensable necessity of stopping this career of mad speculation. To one he

wrote, "I observe what you say, respecting my giving my opinion. I was not unaware of the delicacy of giving any; and was sufficiently reserved, till I perceived the extreme to which Bank script and with it other stock, was tending. But, when I saw this, I thought it advisable to speak out, for a bubble connected with my operations is, of all the enemies I have to fear, in my judgment, the most formidable; and not only not to promote, but, as far as depends on me, to counteract delusions, appeared to me to be the only secure foundation on which to stand. I thought it, therefore, expedient to risk something in contributing to dissolve the charm."

A more effectual mean was the employment of the unapplied revenues. These were placed at the seats of the embarrassment; and were applied at moments of the greatest distress, through the Government agent, in the purchase of the public debt; care being taken to distribute the amounts so as to equalize the relief. His correspondence during that, and the following year, shows how numerous were his exertions to aid his fellow-citizens.

"You have," a friend wrote, alluding to these efforts, "you have the blessings of thousands here, and I feel gratified more than I can express, at being the dispenser of your benevolence."

The following letter to the New York Bank gives additional evidence of his exertions to sustain private credit; and disproves the oft-repeated charge of favoritism to the Bank of the United States. "I feel the greatest satisfaction in knowing from yourself, that your institution rejects the idea of a coalition with the new project, or rather, hydra of projects.* I shall labor to give what has taken place a turn favorable to *another* Union. It is my wish; that the

* "'The Million Bank,' a dangerous tumor in your political and commercial economy."

Bank of New York may, by all means, continue to receive deposits from the Collector, in the paper of the Bank of the United States; and that they may also receive payments for the Dutch bills in the same paper. I have explicitly directed the Treasurer to forbear drawing on the Bank of New York, without special direction from me; and, my intention is to leave you in possession of all the money you have or may receive, until I am assured that the present storm is effectually weathered. Everybody here sees the propriety of your having refused the paper of the Bank of the United States, in such a crisis of your affairs. Be confidential with me. If you are pressed, whatever support may be in my power, shall be afforded. I consider the public interest as materially involved in aiding a valuable institution like yours to withstand the attacks of a confederated host of frantic, and, I fear, in too many instances, unprincipled gamblers. Adieu. Heaven take care of good men and good views."

He was soon after compelled to extend his exertions to the relief of the New York branch of the United States Bank. Its important issues were suddenly contracted, and it was deemed almost impracticable to protect that branch, without producing a general bankruptcy. In this emergency, Hamilton sent for a banker of great intelligence and probity; and, on his sick bed framed a plan, with which he requested him to proceed to New York; and, if necessary, to propose it as one mean of alleviating the distress of that community.

The preservation of the public credit at the moment when loans were being negotiated in Europe, and a check upon the purchase of stock at low prices by foreigners, were the chief motives of his interference. Its effect is shown in a letter to him of this period—"The

difference between the morning and evening, in the price of half shares, was from forty-six per cent. advance to fifty-seven cash; and all this has been effected by the arrival of your despatches to Seton, Schuyler, and myself." This well-timed interposition diminished the evil, which, in the course of this and the succeeding year, wholly disappeared.

The importance of preventing injury to the credit of the United States abroad, prompted a communication to Short, then Minister at the Hague:—"The moderate size of the Domestic debt of the United States," Hamilton observed, "appears to have created the most intemperate ideas of speculation in the minds of a very few persons; whose natural ardor had been increased by great success in some of the early stages of the melioration of the market value of the stock. To combinations of private capitals, thus acquired or increased, sums of specie, obtained as well at the most extravagant rates of premium, as at common interest, were added; and to these were joined purchases of stock on credits, for various terms, so as to create a delusive confidence that the concentration of so much stock in a few hands would secure a very high market rate. This expectation was increased by comparing the market values of the several species of our funds with those of the same species of stock in Great Britain, the United Netherlands, and other parts of Europe; without due allowance for the deductions which should have been made on account of the great difference in the value of money, and the objections arising from our distance from those European money-holders, whose capitals they expected to attract, and other relative circumstances. At the time when many heavy engagements thus formed, were becoming due, some contentions among the dealers in, and proprietors of, the debt, took place; and counter

combinations were formed, to render the crisis of payment and speculation, as inconvenient and disadvantageous as possible. By these means those eventual contracts, it was probably hoped, could be more cheaply complied with; and, moreover, that a reduced market would afford further opportunities of beneficial speculation. The extreme indiscretion of the first-mentioned speculations, and the distress which, it was manifest, they must produce, excited, perhaps, and animated the movements of the other party; and brought on a scene of private distress for money, both artificial and real, which probably has not been equalled in this country. It happened in the winter season, when the influx of cash articles of trade, as returns from abroad, is nearly suspended; and when quantities of specie were sent from the seaports to the interior country, for the purchase of produce, to supply the demand for the spring exportation.

"The banks, who can always perceive the approach of these things, were influenced to limit their operations; and particularly the Bank of the United States, which was then preparing for the opening of its branches, or offices of discount and deposit, in Boston, New York, Baltimore, and Charleston.

"The United States, you would presume, could not be insensible of so fit a moment to make purchases of the public stock; and the Treasurer was accordingly authorized to buy; but, though the appearances of private distress for money were so great, he could not obtain, for several days, the sum of fifty thousand dollars, at the highest rates at which the public purchases had before been made. The holders, who were free from engagements, were averse to selling; the principal persons who were under engagements they could not comply with, were obliged or disposed to place their effects in the

hands of their creditors, who did not choose to add to their own disappointments of great profits, actual losses, by unseasonable sales of the bankrupt's property. The stock in the market, therefore, was really made scarce. A quarter's interest has just been paid. Some of the cautious moneyed people have begun to purchase. The specie is returning from the country; and the heaviest private engagements having now fallen due, the declension of stock may be considered as arrested. There is little doubt that the difficulty for money among the dealers, in the debt, will be, at no time, so great as it has been, after the present week; and that changes of a favorable complexion are to be confidently expected; at first moderate, perhaps, afterwards such as will carry the funds up to their due value."

CHAPTER LXVI.

DURING this period, Hamilton's mind was chiefly occupied in digesting a system of policy to be introduced into the administration of the Government, for the protection of the DOMESTIC INDUSTRY of the country.

A previous part of this narrative has shown, how early he directed his thoughts to this subject; and with what prophetic forecast he urged, while vindicating the opposition of the colonies to the monopolizing policy of England, the introduction of manufactures, as one of its most probable and beneficial consequences.

The growth of cotton in this country as a means of supplying, by the home manufacture, its domestic wants, is, among the suggestions of his youth, that which has attracted most remark. The fact, that, in seventeen hundred and eighty-four, the first adventure of that article was seized at Liverpool, as a violation of the Customs, on the ground, that it was not grown in this country; and the omission to mention it in the treaty of seventeen hundred and ninety-four, both show, how much he anticipated the public mind in his estimate of the importance of the culture of this great staple of its wealth.

The commercial powers of the Congress of the Confederation were too limited to enable it to protect domes-

tic industry; but, even then, Hamilton, while framing a continental impost, kept his eye steadily fixed upon this object.

Similar evidences of his forecast are seen in the measures he now took to gather and place before his fellow-citizens a knowledge of their domestic resources; of their capacity, and genius; and of the extent of their advances in the useful arts.

The impediments which the opposition had interposed to the adoption of the Funding system, and to the enactment of the laws for the Collection of the Revenue, prevented him from directing his attention to this important matter, at an earlier period.

Time having shown the operation of these measures; and decisive indications being given of the favorable state of public opinion; this was regarded by him, as a proper season for the disclosure and prosecution of his views on this subject.

The lowering aspect of Europe indicated the importance of an early resort to domestic supplies for the necessary fabrics in common use. An interruption of the commerce of the country, by a general war, might close the outlets of its rapidly increasing agricultural products. Should peace be preserved, the industry of Europe would successfully compete with those products, charged with the expense of transportation from so remote a field. While, as a matter of fiscal policy, it would be a primary object in his mind, to multiply and diversify the sources of national revenue.

The agriculture of the country did not require additional aid. The Revenue laws had been so framed as to foster its navigation; and, all that remained to promote these great interests, and to establish the real independence and expand the wealth of the nation, was the encouragement of its manufactures.

In doing this, his first object was, after a careful inquiry into the condition of the country, to exhibit a compendious view of their progress; and, then, by an elaborate argument, to satisfy the Government and the nation, of the policy and best form of Legislative encouragement and protection.

His next effort was, by the establishment of a manufacturing association, upon an extensive scale and solid basis, to give a practical example of the benefits to be derived from corporate exertions.

The result of his inquiries is embodied in his REPORT ON MANUFACTURES which was submitted to the nation, during the first Session of the second Congress, on the fifth of December, seventeen hundred and ninety-one.

His correspondence, preparatory to the framing of this Report, shows the immense labor, the variety and extent of his researches, and the minute personal investigation which he bestowed upon the details of this subject.

The origin, history, and progress of all the principal domestic manufactures were accurately studied; the obstacles to be overcome; the state of the American market; the supplies of the raw materials; the prices of labor; its amount, and the extent to which it could be advantageously withdrawn from other pursuits; the cost, character, and value of foreign fabrics; the laws and policy of the manufacturing nations of Europe, were all embraced within this enlarged survey. In addition to which, he directed his attention to the various kinds and improvements of machinery; to the construction of buildings; and the best application of hydraulic powers.

An inspection of the mass of materials he collected, can, alone, give an adequate conception of the toil he endured in the digest of a system, which he regarded, as

among the surest and most efficient means of promoting the national prosperity.

His efforts to establish a manufacturing society give similar evidence of his industry and zeal. Having caused surveys to be made of parts of the Delaware, of the Raritan, and of the Passaic; and having carefully compared, after a personal examination, the relative advantages of position; he was the founder of the works at Paterson. A number of his personal friends, being induced by him to subscribe the requisite capital, he obtained, from the Legislature of New Jersey, a charter, of which, the provisions are eminently adapted to its objects.

His exertions did not cease at this point; he opened correspondences to obtain workmen from Europe; induced the Bank of New York to contribute, by a liberal loan, to the infant efforts of the establishment; and, when the madness of speculation impaired its exertions, he used every resource to sustain and foster an institution, which he regarded with a parental interest.

In his various exertions to aid and facilitate the efforts of the people of this country to obtain and provide themselves with essential supplies, he was actuated, not less by a sense of the importance of those efforts, than by a deference to the undoubted expectations of the industry of the nation, expressed, in every possible form. He now reasoned before it on the great interests of the commonwealth.

His Report opens with an allusion to the recent change of opinion which had taken place in the United States, on the question of the expediency of encouraging manufactures.

This change in favor of a protective system was attributed to various causes—the obstructions of external trade, indicating the necessity of enlarging the domestic

commerce; the restrictive foreign regulations, which abridged the vent of agricultural productions, begat the desire of a more extensive home demand for them; while the success of recent efforts of manufacturing enterprises justified the hope, that the obstacles to their success were less formidable than had been apprehended; and that the extension of them would compensate for any external disadvantages which might be feared; and would produce an accession of resources favorable to national independence and safety.

He next considered the arguments for the adverse opinions—that agriculture was the most beneficial and productive object of human industry, with which it would be unwise to interfere; that a forced success of manufactures would involve a sacrifice of general to particular interests.

"Had the policy of Free trade been more prevalent among nations," he observed, "there was room to suppose their advance to prosperity would have been more rapid than it had been. But to this, as to other general political theories," he remarked, "there were numerous exceptions—there being few which did not blend much error with the truths they inculcate." The superior productiveness of agriculture he did not admit, but, after a discussion of this intricate question, came to the conclusion, that, on the whole, there was no material difference between the aggregate productiveness of agriculture, and manufactures.

He next proceeded to the important consideration, that the establishment and diffusion of manufactures rendered the total mass of useful and productive labor greater than it would otherwise be. The causes of this result were considered—the division of labor—the application of machinery—the additional employment of classes of

people not originally engaged in the business—the promotion of immigration—the larger scope furnished to the diversity in the talents and dispositions of men—the more ample and various field for enterprise—the creating a new, and securing a more steady and certain demand for the surplus produce of the soil, by the opening of a domestic market.

The policy of introducing manufactures into a country, situated as this was, he next defended. "If the system of *perfect liberty* to industry and commerce," he remarked, "were, the prevailing system of nations, the arguments which dissuade a country, in the predicament of the United States, from the zealous pursuit of manufactures, would doubtless have great force. It will not be affirmed, that they might not be permitted, with few exceptions, to serve as a rule of national conduct. In such a state of things, each country would have the full benefit of its peculiar advantages, to compensate for its deficiencies or disadvantages. If one nation were in a condition to supply manufactured articles on better terms than another, that other might find an abundant indemnification in a superior capacity to furnish the produce of the soil. And, a free exchange, mutually beneficial, of the commodities which each was able to supply, on the best terms, might be carried on between them, supporting in full vigor the industry of each. And, though the circumstances which have been mentioned, and others, which will be unfolded hereafter, render it probable, that nations merely agricultural, would not enjoy the same degree of opulence, in proportion to their numbers, as those which united manufactures with agriculture; yet, the progressive improvements of the lands of the farmer, might, in the end, atone for an inferior degree of opulence; in the mean time, and, in a case in

which opposite considerations are pretty equally balanced, the option ought, perhaps, always to be in favor of leaving industry to its own discretion.

"But the system which has been mentioned, is far from characterizing the general policy of nations. The prevalent one has been regulated by an opposite spirit. The consequence of it is, that the United States are, to a certain extent, in the situation of a country *precluded from* foreign commerce. They can, indeed, without difficulty, obtain from abroad the manufactured supplies of which they are in want; but they experience numerous and very injurious impediments to the emission, and vent of their own commodities. Nor is this the case in reference to a single foreign nation only. The regulations of several countries with which we have the most extensive intercourse, throw serious obstacles in the way of the principal staples of the United States. In such a position of things, the United States cannot exchange with Europe, *on equal terms;* and the want of reciprocity would render them *the victim* of a system which should induce them to *confine* their views to agriculture, and refrain from manufactures. A constant and increasing necessity on their part, for the commodities of Europe, and only a *partial* and *occasional* demand for their own in return, could not but expose them to a state of impoverishment, compared with the opulence to which their political and natural advantages authorize them to aspire."

The natural remedy was, an acceleration of the domestic supply.

He then combated the favorite theory, that "industry, if left to itself, will naturally find its way to the most useful and profitable employment." Cogent reasons were offered in refutation of this hypothesis. The strong influence of habit, and the spirit of imitation; the hesita-

tions of untried enterprise; the intrinsic difficulties of the first essays towards competition; the bounties and premiums, and other artificial encouragements of foreign nations to their own industry. "These combined influences," he said, "produce the effect, that, although the industry of a people under the direction of private interest will, upon *equal terms*, find out the most beneficial employment for itself; yet, that it will not struggle against the force of *unequal* terms, nor of itself surmount the adventitious barriers, which may have been erected to a successful competition."

The scarcity of hands; the dearness of labor; and want of capital, he did not consider as adequate objections to the proposed policy. Immigration and machinery would supply the paucity of hands, and diminish the price of labor; an obstacle much exaggerated, and which would be more than compensated, by the greater profits resulting from the less cost of domestic materials; the commissions of trade; the expense and risk of transportation; and the taxes and duties on foreign fabrics. The very circumstance of additional motion given to capital by new objects of employment, would, in a measure, supply its wants—an effect which, he said, might be represented in a compound ratio to mass and velocity. The tendency of Banks to extend the actual capital, and the aid of foreign capital, would also obviate this supposed difficulty. In this view, the ill-judged clamors against the introduction of foreign capital, are largely exposed. The value of the Funded debt, as a great additional capital, is then mentioned. The objections to it in that aspect, are fully answered; and the reanimated industry of the country is referred to, but with a guarded caution against its being inferred, that, from such being its operation, he was in favor of an accumulation of debt.

He next considered the supposed tendency of this policy to give a monopoly of advantages to particular classes, at the expense of others, who could have procured the fabrics on better terms from foreigners. "It is not," he remarked, "an unreasonable supposition, that measures which serve to abridge the free competition of foreign articles, have a tendency to occasion an enhancement of prices; and it is not to be denied, that such is the effect in a number of cases; but the fact does not uniformly correspond with the theory—a reduction of prices has, in several instances, immediately succeeded the establishment of a domestic manufacture. But, though such were not the immediate effect, the ultimate and universal effect of every successful manufacture has been to *reduce prices*. When a domestic manufacture has attained to perfection, and has engaged in the prosecution of it, a competent number of persons, it invariably becomes cheaper. It is freed from the charges and taxes of importation; an internal competition follows, which does away with every thing like monopoly, and, by degrees, reduces the price of the article to the minimum of a reasonable profit, on the capital employed. This reduction benefits all consumers; of whom the agriculturists are the most numerous."

Having answered the objections to a system of protection, he took a view of the considerations in its favor. The more lucrative trade of a people, both manufacturing and agricultural, is largely shown. But, "not only the wealth," he remarked, "but the independence and security of a country, are materially connected with the prosperity of manufactures. The possession of the essentials of national supply is necessary to the perfection of the body politic; to the safety as well as to the welfare of the society. The want of the means of subsistence,

habitation, clothing, or defence, is the want of an important organ of political life and motion." To supply those in which the United States are deficient, as fast as shall be prudent, he emphatically remarked, "IS THE NEXT GREAT WORK TO BE ACCOMPLISHED."

"The want of a NAVY to protect our external trade, as long as it shall continue, must render it a peculiarly precarious reliance, for the supply of essential articles; and prodigiously strengthens the arguments in favor of manufactures."

To these leading considerations, others were added, arising from the distance between the United States and the great source of manufactured supply. The interests of the fisheries were also involved in this policy.

A prevalent error was next examined. "It is not uncommon," he said, "to meet with an opinion, that, though the promoting of manufactures may be the interest of a part of the Union, it is contrary to that of another part. The idea of an opposition between these two interests, is the common error of the early periods of every country; but experience gradually dissipates it." That the interests of the Northern States are contrary to those of the South, are *ideas "as unfounded as they are mischievous."* "The diversity of circumstances," which is the source of this error, "authorizes a directly opposite conclusion." Mutual wants constitute one of the strongest links of political connection; and the extent of these bears a natural proportion to the diversity in the means of mutual supply." "Suggestions of an opposite complexion are ever to be deplored, as unfriendly to the steady pursuit of one great common cause, and to the perfect harmony of all the parts. In proportion as the mind is accustomed to trace the intimate connection of interest which subsists between all the parts of a society united under the same

Government; the infinite variety of channels which serve to circulate the prosperity of each to and through the rest; in that proportion, will it be little apt to be disturbed, by solicitudes and apprehensions, which originate in local discriminations. It is a truth as important as it is agreeable, and one to which it is not easy to imagine exceptions, that every thing tending to establish substantial and permanent order in the affairs of a country; to increase the total mass of wealth and opulence, is ultimately beneficial to every part of it. On the credit of this great truth, an acquiescence may safely be accorded, from every quarter, to all institutions and arrangements which promise a confirmation of public order, and an augmentation of national resources.

"If the Northern States should be the principal scenes of manufactures, this would create a demand for the product of the Southern States particularly beneficial to them." He then adverted to the advantages of thus employing the foreign funds invested in the debt, as a means of preventing their re-exportation to pay for foreign luxuries consumed to excess, and a drain of specie, and also as an instrument in agricultural meliorations, at a time when the disturbed state of Europe would give a supply of workmen.

"To find pleasure in the distresses of other nations," he remarked, "would be criminal; but, to benefit ourselves by opening an asylum to the sufferers, is as justifiable as it is politic."

This extended dissertation closed with an exhibition of the means by which this policy could be effected, as introductory to a specification of the objects which then appeared most fit to be encouraged. These means were: protecting duties—prohibitions of rival articles—prohibitions of the exportation of the materials of manufactures

—pecuniary bounties—premiums—the exemption of the materials of manufactures from duties—drawbacks of the duties on such materials—the encouragement of new inventions and discoveries at home, and of the introduction of those of other countries—judicious regulations for the inspection of manufactured commodities—the facilitating of pecuniary remittances from place to place—the facilitating of the transportation of commodities. Each of these means is recommended with different degrees of confidence, and with various qualifications. Those of protecting duties and prohibitions had already been embodied in the laws of the United States. The advantages of "pecuniary bounties" are regarded as more positive and direct than any other species of encouragement. "In new undertakings, bounties are as justifiable as they are oftentimes necessary. There is no purpose to which public money can be more beneficially applied than to the acquisition of a new and useful branch of industry; no consideration more valuable than a permanent addition to the general stock of productive labor." "As often as a duty upon a foreign article makes an addition to its price, it causes an extra expense to the community for the benefit of the domestic manufacturer. A bounty does no more. But it is the interest of the society, in each case, to submit to a temporary expense, which is more than compensated by an increase of industry and wealth; by an augmentation of resources and independence; and by the circumstances of eventual cheapness."

A constitutional objection had been raised to this species of encouragement. "The National Legislature," he remarked, "has express authority to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and welfare; with no other qual-

ifications than, that all duties, imposts, and excises, shall be uniform throughout the United States; that no capitation or other direct tax shall be laid, unless in proportion to numbers, ascertained by a census or enumeration taken on the principles prescribed in the Constitution; and, that no tax or duty shall be laid on articles exported from any State. These qualifications excepted, the power to raise money is plenary and indefinite; and the objects to which it may be appropriated are no less comprehensive than the payment of the public debts, and the providing for the common defence and general welfare. The terms, 'general welfare,' were doubtless intended to signify more than was expressed or implied in those which preceded; otherwise numerous exigences incident to the affairs of a nation would have been left without a provision. The phrase is as comprehensive as any that could have been used, because it was not fit that the constitutional authority of the Union to appropriate its revenues, should have been restricted within narrower limits than 'the general welfare,' and because this necessarily embraces a vast variety of particulars, which are susceptible neither of specification, nor of definition.

"It is, therefore, of necessity, left to the discretion of the National Legislature, to pronounce upon the objects which concern the general welfare; and, for which, under that description, an appropriation of money is requisite, and proper. And there seems to be no reason to doubt, that, whatever concerns the general interests of learning, of agriculture, of manufactures, and of commerce, are within the sphere of the National Councils; as far as regards an application of money. The only qualification of the generality of the phrase in question, which seems to be admissible is, that the object to which an appropriation of money be made, be general, and not local; its operation

extending, in fact, or by possibility, throughout the Union; and not being confined to a particular part.

"No objection ought to arise to this construction from a supposition, that it would imply a power to do whatever else should appear to Congress conducive to the general welfare—a power to appropriate money, with this latitude, which is granted in express terms, would not carry a power to do any other thing not authorized in the Constitution, either expressly or by fair implication."

"As to facilitating pecuniary remittances," he observed, "a general circulation of bank paper, which is to be expected from the institution lately established, will be a most valuable mean to this end." He proposed, in addition, that inland bills drawn in one State, payable in another, should be made negotiable everywhere.

The importance of another mean of encouragement, is strongly urged.—"The facilitating the transportation of commodities" by public roads and canals. He remarked, "no object can be more worthy of the cares of the *local* administrations, than INLAND NAVIGATION; and it were to be wished, that there was no doubt of the power of the National Government to lend its direct aid on a comprehensive plan."

As tending to obstruct manufactures, all poll or capitation rates, or arbitrary taxes are censured, being as "contrary to the genius of liberty as they are to the maxims of industry."

A designation of the chief objects to which this encouragement should be extended, governed by certain important specified considerations, closes this Report. These are classed according to the principal raw materials, of which each manufacture is composed. In aid of some of them, bounties and premiums are recommended; and the

sources from which the funds for these purposes were to be derived, are indicated.

As material modifications of existing duties would follow; it was proposed, after supplying any deficiencies which may have been occasioned, that the surpluses created should be applied to constitute one fund to pay the bounties, which shall have been allowed; and another fund, for the operations of a Board to be established for promoting arts, agriculture, manufactures, and commerce. An outline of this institution is given. Its chief objects were, to attract hither, and to pay the expenses of artisans in particular branches of extraordinary importance; to reward useful inventions and improvements; and to encourage, by premiums, the exertions of individuals and of classes, in relation to the several objects they are charged with promoting. This, private contributions can, in some degree, effect; but, it was observed, that "the public purse must supply the deficiency of private resource. In what can it be so useful, as in prompting and improving the efforts of industry?"

The inductive course of reasoning usually pursued by Hamilton in his discussions of political science, is nowhere more to be observed, than in this Report; and, in none, are all the qualifications proper to be admitted in the examination of so intricate a matter, more carefully stated. As a specimen of the powers of mind, and particularly of the integrity of that mind, which gave to each consideration its due force and value, while nothing belonging to the subject is omitted in its comprehensive scope, this State paper must always hold a high rank.

Differing views exist of the policy of which he was the advocate; but its wisdom will be more readily questioned by those who have forgotten, than by those who

recur to the time when, and the circumstances under which, it was delineated.

If a nation, with a vast, redundant capital, with a superabundant population, proximate to others; with manufactures far advanced, an opulent commerce, and extended navigation, may safely disregard the aids by which it has reached this maturity, no inference should thence be drawn against the employment of those aids under circumstances widely different.

The limits within which they were to be granted, must also be referred to in determining the character of his policy. Adhering to the views, which led him, in the numbers of the "Continentalist;" while urging the necessity of a power of regulating trade both by bounties and prohibitions, to advise, "easy duties on commerce," the highest ad valorem rate now recommended by him was fifteen per cent., while the average did not exceed ten. "I believe," he says in the Federalist, "it may safely be asserted, that these duties" (on imports) "have not upon an average exceeded in any State three per cent. There seems to be nothing to hinder their being increased in this country to, at least, treble their present amount."*

No American Statesman has been more, or more often

* As it is obvious, that the scale of a protective duty must be graduated by the cost of the competing foreign article, these limits are quoted only as indicating his aversion to extremes. Thus, while urging a resort to excises on manufactures, as an auxiliary source of Revenue, in a subsequent number of the Federalist, he exposes the danger of extending the Import duties, "to an injurious excess."—"All extremes are pernicious in various ways."—Among other consequences, he says, "they tend to render other classes of the community tributary, in an *improper* degree, to the manufacturing classes, to whom they give a premature monopoly of the markets; they, sometimes, force industry out of its most natural channels into others in which it flows with less advantage; and, in the last place, they oppress the merchant, who is often obliged to pay them, himself without any retribution from the consumer," etc. In his Report of the seventeenth of March, 1792, when proposing to extend the

misjudged. Called to discuss the various, great principles in the science of a nation's economy, Hamilton would naturally and properly, in such discussion, confine his remarks to the branch of which he was treating. Hence, the greater the extent and variety of the subjects of his disquisitions, the more he would be exposed, by partial and tortured applications of those principles, to temporary misconception.

But for this, his fame is now receiving abundant compensation. The extent and variety of his comments enables a full and comprehensive view to be taken of his policy, as a great whole; and ensures to his reputation a larger ultimate justice. It is to be regretted, that the violence and course of the opposition prevented his carrying into effect, his intention to prepare a well digested tariff; and, thus, left less precise the evidence on this point. But, it may be said, that from the assistance he proposed to give to manufactures, no other branch of industry could possibly suffer; for none was extravagantly forced. The order of his mind was inconsistent with a resort to sudden, or violent, or partial expedients. Having, by his previous measures, conferred upon commerce and navigation, and through them, upon the agriculture of the country, the protection each required; he now, with wisely enlarged views, rising above all vague theory, extended his guardian care to its infant manufactures. The great interests of industry were thus all cherished—the great wants of society all provided for, and the great springs of national prosperity all opened, and directed in broad and widening channels.

To a close observer of the past progress of this coun-

duty of seven and a half per cent., to *all* cotton goods, he observes, that this rate "could not be deemed inconveniently high." He would have granted a small bounty on American manufactures of cotton.

try, nothing will more commend itself, by its results, than his wisely impartial, fostering, political economy. "Let the thirteen States, bound together in a great indissoluble UNION, concur in erecting one great AMERICAN SYSTEM, superior to the control of transatlantic force or influence, and able to dictate the connection between the old and new world." * Such was his admonition, when urging upon the American people the great paramount idea of his mind;—UNITY of Empire—under a National Government.

But, while laboring to effect this great object, and to confer on the American people, among the benefits of such Unity, the development of their resources, it is not to be forgotten, that in this well considered State paper, he explicitly admits the truth of the doctrine of free trade, as an universal rule of the world of nations—an opinion early entertained, repeated, never relinquished. "My Commercial system," he remarked, "turns very much on GIVING A FREE COURSE TO TRADE, and cultivating good humor with all the world." †

In the course of preparing his recent Reports on the Mint and for the protection of the industry of the country, Hamilton found much embarrassment in obtaining the requisite information. This suggested the following note to the Secretary of State. "It has occurred to me, that it would be productive of very useful information, if some officer of the United States in each foreign country, where there is one, were instructed to transmit

* The friends of domestic industry have vied with each other in demonstrations of respect to the founder of "the American system." His name is heard, wherever the subject is discussed; and emblematic medals, have been struck, bearing the effigy of "Hamilton." In 1809, a Democratic Congress ordered a reprint of his Report on Manufactures.

† Hamilton's Works, iv. 97–98.

occasionally, a state of the coins of the country—specifying their respective standards, weights and values; and, periodically, a state of the market prices of gold and silver in coin and bullion, and of the rates of foreign exchange; and of the rates of the different kinds of labor, as well that employed in manufactures and in tillage. I would beg leave to request, if there appears to you no inconvenience in the thing, that an instruction may be sent for the above purpose; and that copies of the statements, which shall from time to time be received in consequence, may be furnished to the treasury." It is believed, that this suggestion was not carried into effect.

Soon after the date of this letter, in midsummer, the Secretary of the Treasury made a visit to the city of New York. There he received every mark of public and private consideration. He was admitted to the freedom of the city. His portrait* was placed in the Hall of Justice. The great body of the merchants united with the citizens, in a public festival; and throughout the country the different literary institutions conferred on him their honors.

After a short absence, he repaired to Philadelphia. "The President," Hamilton wrote, "as you will have seen, has returned. His journey has done good, as far as it regards his own impressions. He is persuaded that the dispositions of the Southern people are good; and that

* In answer to the invitation to sit for it, he wrote, Philadelphia, January 15, 1792—"Gentlemen, the mark of esteem, on the part of fellow-citizens to whom I am attached by so many ties, which is announced in your letter of the 29th of December, is entitled to my affectionate acknowledgments.

"I shall cheerfully obey their wish, as far as respects the taking of my portrait; but, I ask that they will permit it to appear unconnected with any incident of my political life. The simple representation of their fellow-citizen and friend will best accord with my feelings."

certain pictures which have been drawn, have been strongly colored by the imagination of the drawers.

"We have just heard from the Westward, but of no event of importance. Things are said to have been in good preparation. The people of Kentucky wonderfully pleased with the Government; and Scott, with a corps of ardent volunteers, on their route to demolish every savage, man, woman and child." Thus, did his feelings revolt from this border warfare.

The impressions of the President, previously given in his letters, are shown when writing to La Luzerne. "In my tour, I confirmed by observation, the accounts which we had all along received of the happy effects of the general government upon our agriculture, commerce and industry. The same effects pervade the middle and eastern States, with the addition of vast progress in the most useful manufactures. The complete restoration of our public credit holds us up in a bright light abroad. Thus it appears, that the United States are making great progress towards National happiness."

The allusion made by Hamilton to the expedition against the Indians calls the attention again to his views upon this subject. In reply to a letter of the President, who stated that every expedient is tried to avert a war with them; lamenting the intermeddling of the States in matters which belong to the general government, he remarked, "It is to be lamented, that our system is such as still to leave the public peace of the Union at the mercy of each State government. This, is not only the case as regards direct interferences, but as it regards the *inability* of the National Government, in many particulars, to take those direct measures for carrying into execution its views and engagements, which exigencies require. For

example, a party comes from a county of Virginia into Pennsylvania, and wantonly murders some friendly Indians. The National Government, instead of having power to apprehend the murderers, and bring them to justice, is obliged to make a representation to that of Pennsylvania; that of Pennsylvania again, is to make a representation to that of Virginia; and whether the murderers shall be brought to justice at all must depend on the particular policy and energy, and good disposition of two State governments, and the efficacy of the provisions of their respective laws; and the security of other States, and the money of all, are at the discretion of one. These things require a remedy."

The peace of the country was also endangered from another quarter. Not only were collisions threatened by encroachments on the north-eastern boundary, but also from the north and north-western frontiers alarms were given. Jefferson wrote to Washington, "The impossibility of bringing the Court of London to any adjustment of any differences whatever, renders our situation perplexing.—Should any applications from the States or their citizens require it, my opinion would be, that they should be desired to make no new settlements on our part; nor to suffer any to be made on the part of the British within the disaffected territory; and, that, if any attempts should be made to remove them, that they are to repel force by force, and ask aid of the neighboring militia to do this, and no more. I see no other safe way of forcing the British Government to come forward themselves, and demand an amicable settlement."

The President answered from Mount Vernon: "Your opinions respecting the acts of force, which have already taken place, or may yet take place, on our boundaries,

meet my concurrence as the safest mode of compelling propositions for an amicable settlement."

Governor Clinton, subsequently, gave information of an expected aggression by the British. The reply, signed by Washington, was written by Hamilton,* and is in a different spirit from the advice of the Secretary of State.

"Sir,—Your letter of the seventh instant, with its enclosure, did not reach me till yesterday. The intelligence, as communicated, is of a nature both serious and important. Indeed, the step it announces, as about to be taken by the British, would be one so extraordinary in every view, as to justify a question, whether the indications which are alleged to have been given, have not rather proceeded from some indiscreet levity on the part of the officers alluded to, than from any real design of doing what appears to have been threatened. A little time, however, will explain the true state of the matter.

"Your Excellency needs not, I am persuaded, be assured, that, in connection with the more general considerations which are involved in the circumstance, I feel a due concern for any injury, inconvenience, or dissatisfaction, which may have arisen or may arise, in respect to the State of New York, or any part of its inhabitants, in consequence of the detention of the posts; or the interferences which may have grown out of it. Nor has the matter failed to receive from me the degree of attention to which it is entitled. Yet, in a point of such vast magnitude, as that of the preservation of the peace of the Union, particularly in this still very early stage of our affairs, and, at a period so little remote from a most exhausting and afflicting, though successful, war; the public welfare and safety, evidently enjoin a conduct of circum-

* September 14, 1791.

spection, moderation, and forbearance. And it is relied upon, that the known good sense of the community, ensures its approbation of such a conduct.

"There are, however, bounds to the spirit of forbearance, which ought not to be exceeded. Events may occur which may demand a departure from it. But, if extremities are at any time to ensue, it is of the utmost consequence, that they should be the result of a deliberate plan, not of an accidental collision; and, that they should appear, both at home and abroad, to have flowed either from a necessity which left no alternative, or from a combination of advantageous circumstances, which left no doubt of the expediency of hazarding them.

"Under the impression of this opinion, and supposing that the event which is apprehended should be realized; it is my desire, that no hostile measures be in the first instance attempted. With a view, nevertheless, to such ultimate proceedings as the nature of the case may require; and, that, upon the ground of well-authenticated facts, I have concluded to send a gentleman to the spot, who will be charged to ascertain and report to me whatever may take place, together with the general situation of the part of the country immediately affected by the vicinity of the British posts. An additional motive to this measure is the desire of obtaining information, in reference to the establishment of the Custom House in the State of Vermont, which is also connected with the position of these posts."

A short time previous to the date of this letter, the President requested the Chief Justice to give his ideas of such topics, as were fit subjects for general or private communications to Congress. Some of Jay's suggestions were attended to. The President, subsequently, on the fourteenth of October, wrote a letter to the Secretary

of the Treasury, stating the matters he proposed to embrace in his speech,—which was followed by this note:—"My dear Sir,—When I addressed a private letter to you, a few days ago, I had no more idea, that Monday the twenty-fourth inst., was the day appointed for the meeting of Congress, than I had of its being doomsday, until it was mentioned to me in a letter which I have just received from Mr. Lear, (who was under the like mistake.)

"It had taken such deep root in my mind that the last Monday in the month was the time, that I never consulted the law or made any inquiry about it; and meant to move leisurely on, in the course of next week, for Philadelphia; and for that purpose, had directed Page to send off his stage coach, so as to be at Georgetown, on Tuesday the eighteenth.

"This discovery, however, will oblige me, as soon as I am provided with the means, to accelerate my journey; and it induces me, at the same, time to urge you more earnestly to be prepared against my arrival, with what my last requested.

"How far, in addition to the several matters mentioned in that letter, would there be propriety, do you conceive, in suggesting the policy of encouraging the growth of cotton and hemp, in such parts of the United States as are adapted to the culture of these articles?

"The advantages which would result to this country from the produce of articles which ought to be manufactured at home, is apparent; but how far bounties on them come within the powers of the Government, or it might comport with the temper of the times, to expend money for such purposes, is necessary to be *considered;* and, without a bounty is given, I know of no means by which the growth of them can be *effectually* encouraged.

"The establishment of arsenals in convenient and proper places, is, in my opinion, a measure of high national importance, meriting the serious attention of Congress; and is one of those measures, which ought to be brought to their view.

"Yesterday, I received the resignation of John Spotswood Moore, Surveyor of West Point, in this State. I mention it now, that, if opportunities should present, you may make the necessary inquiries into the fitness of Alexander Moore, his brother, whom he recommends, as his successor. With affectionate regard, I am ever yours."

Three days later, the President inclosed suggestions made to him by Jefferson and Madison, then at Mount Vernon, "from whom," he states, he "requested information of the several matters that had occurred to them proper for communication." On the same day, Hamilton requested the Secretary of War, as the President expected he would, to prepare paragraphs referring to Indian affairs. Having stated the particulars, he observed; "You will of course add any other things, that occur on any point."

CHAPTER LXVII.

The second Congress met at Philadelphia, the twenty-fourth of October. The speech opened with an allusion to the "prosperous situation of their common country," to "the happy effects produced by the revival of private and public confidence," and to "the new and decisive proofs which existed, of the increasing reputation and credit of the nation."

Of these, "the rapid subscription to the Bank of the United States, which completed the sum allowed to be subscribed, in a single day," was mentioned, as "among the striking and pleasing evidences, which present themselves, not only of confidence in the Government, but of resource in the community."

The "defence and security of the Western frontier," was stated, as the most important object which had occupied the cares of the administration, during the recess. "To accomplish it, on the most humane principles, was a primary wish." With some of the Indians, treaties had been concluded; as to others, of a hostile disposition, effectual means had been adopted, "to make them sensible that a pacification was desired upon terms of moderation and justice." These having failed, offensive operations had been directed, some of which had been completely

successful. "It was sincerely to be desired, that all need of coercion, in future, may cease; and that an intimate intercourse may succeed, calculated to advance the happiness of the Indians, and to attach them firmly to the United States."

To attain these ends, it was declared to be necessary, "that they should experience the benefits of an impartial dispensation of justice; that the mode of alienating their lands—the main source of discontent and war—should be so defined and regulated, as to obviate imposition; and, as far as may be practicable, controversy concerning the reality and extent of the alienations which are made; 'the promotion of commerce,' under regulations tending to ensure an equitable deportment towards them, and that, such rational experiments should be made, for imparting to them the blessings of civilization, as may, from time to time, suit their condition; that the Executive should be enabled to employ the means to which the Indians have been long accustomed, for uniting their immediate interests with the preservation of peace; and that efficacious provision should be made for inflicting adequate penalties upon all those, who, by violating their rights, shall infringe the treaties and endanger the peace of the Union."

In conformity with the "just and humane" views which Hamilton had early expressed, it was declared, that a "system corresponding with the mild principles of religion and philanthropy, towards an unenlightened race of men, whose happiness materially depends on the conduct of the United States, would be as honorable to the National character, as conformable to the dictates of sound policy."

After adverting to the measures recently taken to carry the internal revenue system into execution, and to

the discontents which the novelty of the tax on distilled spirits, in parts of the country, had excited, it was suggested, "that it would comport with a wise moderation," to remove, by proper variations in the law, "any well intentioned objections that may happen to exist." "It is desirable," it was avowed, "on all occasions, to unite, with a steady and firm adherence to constitutional and necessary acts of Government, the fullest evidence of a disposition, as far as may be practicable, to consult the wishes of every part of the community; and to lay the foundations of the public administration in the affections of the people."

The success of the Funding system, and the general satisfaction of the public creditors, evinced by the fact, that the subscription to the Domestic debt had embraced, "by far the greatest portion of it," were next stated, and it was observed, that, "the revenues which have been established, promise to be adequate to their objects, and may be permitted, if no unforeseen exigency occurs, to supersede, for the present, the necessity of any new burthens."

The subjects on which the Congress would be called to act were then briefly enumerated. These were—the Militia; the Post Offices and Post Roads; the Mint; Weights and Measures; and a provision for the sale of the Public Lands. "The disorders," it was remarked, "in the existing currency, and especially the scarcity of small change—a scarcity so peculiarly distressing to the poorer classes—strongly recommend the carrying into effect the resolution entered into concerning the establishment of a Mint." "An uniformity in the weights and measures of the country," it was observed, "is among the most important objects submitted to you by the Constitution; and, if it can be derived from a standard, at once invariable and universal, must be no less honorable to the

public councils, than conducive to the public convenience."

The address of the House was reported by Madison. It expressed gratification "at the actual prosperity and flattering prospects of the country;" satisfaction with the success of the important measures of the Government; and gave a general assurance of its concurrence in efforts to promote the public welfare. That of the Senate in a similar, though warmer tone of approbation, was reported by a committee, consisting of Burr, who was elected to fill the vacancy of Schuyler; Cabot, chosen in the place of Dalton; and Johnson. The answers of the President to these addresses, were, at his request,* prepared by Madison.

Before the several subjects referred to in the speech were considered, a very exciting topic occupied the House of Representatives, as it not only would determine the relative weight of each State in that body, but would probably decide the ascendency between the two great parties, which unhappily divided the country.

The apportionment of Representatives among the States by the Constitution had necessarily been made upon a conjectural basis. This was to continue in force, only until an enumeration of the inhabitants; which it provided, should be made within three years after the first meeting of Congress.

No fixed ratio of Representation to population had been established by that instrument, its only provisions on this subject being, that, "the number of Representatives shall not exceed one for every thirty thousand," com-

* Washington to Madison, October 27, 1791, and again on the 11th December, 1791—"Let me entreat you to finish the good offices you have begun for me, by giving short answers to the enclosed address. I must have them ready by Monday."

puted by the constitutional rule, as to Federal numbers; and that "each State shall have at least one Representative." This subject was brought immediately before the House, by a message from the President, communicating a copy of the recent census.*

A motion was then made by Lawrence, of New York, that until the next enumeration, there should be one Representative for every thirty thousand persons. In favor of this number, he stated, that the subject had been canvassed throughout America; and that the amendments to the Constitution, proposed by the States, all indicated the expectation that this ratio would be established; that the general idea was, that one hundred members † would be the most eligible number; and that this ratio would give a result of a few more.

In opposition to the larger ratio, he urged, that a nu-

	Slaves.		Total.
* Vermont,	16	.....	85,539
New Hampshire,	158	.....	141,885
Maine,	None	.....	96,540
Massachusetts,	None	.....	378,787
Rhode Island,	948	.....	68,825
Connecticut,	2,764	.....	237,946
New York,	21,324	.....	340,120
New Jersey,	11,423	.....	184,139
Pennsylvania,	3,737	.....	434,373
Delaware,	8,887	.....	59,094
Maryland,	103,036	.....	319,728
Virginia,	292,677	.....	747,610
Kentucky,	12,430	.....	73,677
North Carolina,	100,571	.....	393,751
Georgia,	29,264	.....	82,548
Territory S. of Ohio,	3,417	.....	35,691
South Carolina,	107,094	.....	249,073
	697,696		3,929,326

† This was the lowest number proposed in Hamilton's plan of a Constitution.

merous representation would afford greater security to the liberties of the people; that the firmness of the Government depended upon a strong Executive; that this Executive should be founded on a broad basis; and the broader the basis the more secure would be the public freedom. The existence of the Union might depend on the fulness of the Representation.

The inequality in the proportional increase of the numbers, in different States, ought also to be taken into consideration, for, it was probable, in a very short time, while some of the smaller States had a representative for every thirty thousand, others would not have one to forty thousand. He was governed by general principles, not by any calculations of fractional numbers. The Constitution contemplated the number he had proposed. Similar views of this subject were taken by Baldwin, Findley, Gerry, Heister, and Page.

A smaller ratio was advocated by Boudinot, Dayton, Hillhouse, Steele, Vining, and White, by whom the increased expense, the delay of public business, the diminished responsibility, were principally urged as objections to a more numerous representation.

After a debate of some length, the original proposition prevailed. In this vote, no political division is seen; but the arguments advanced indicate the violence of feeling with which the opposition to Hamilton was renewed.

The greater difficulty of corruption was one among the reasons urged in favor of a numerous representation. This argument was seized upon eagerly. It was stated, that the Federal Government was pretty highly seasoned with prerogative; that practice had already evinced, in many instances, the necessity of increasing it, by devolving much of the Legislative power upon the Executive Department, arising from the difficulty of

making provisions and details in the laws, and accommodating them to the various interests of so extensive a country. The Senate had many traits of a perpetual, at least, of a very solid constituent part of the Government. A counterpoise ought to be found in a numerous representation. The great cause of revolutions in governments was the inequality of fortunes. The financial policy, Giles declared, had already produced that result in the United States. If such had been the effect of the Funding system, still greater danger was to be apprehended from the Bank, some of the directors of which were members of that House, who would aid in advancing the views of a moneyed interest, to which a large representation was the only adequate barrier.

The friends of the administration, after challenging proofs of the influence which had been so strenuously deprecated, were content to repel by general declarations, the general assertions of the opposition, viewing them as wholly irrelevant to a question, the decision of which could only have a temporary influence, as the proposed amendment of the Constitution relating to this subject, had been confirmed by eight States, and was expected to be adopted.

Clark, a zealous member of the opposition, replied particularly to Giles,—"He hoped," he observed, "he should not be stigmatized with the name of an aristocrat, for voting in favor of a larger ratio. Hitherto he had not borne that character. Much had been said about the influence of the Bank; and that the Bank directors were members of the House of Representatives. The Bank was public property, and he could not see the force of the argument respecting the dangerous influence of that institution. He viewed the objections respecting the influence of speculators, in the same light. He did not

know that any members of the House were speculators; neither could he see the dangers from bribery, menaced as consequences of this apportionment. It will be easier for a representative to purchase a small district than a large one. If ever the liberties of the people are endangered, it will not be by the smallness of the representation, but by the corruption of electors and elections.

Near the close of the debate, this question was considered in a larger view—the danger of a combination among the great States to the sacrifice of the interests of the smaller. The chief security of these, it was observed, existed in the Senate. Even then, the Senate had need of all its firmness in continuing to oppose any act, in favor of which the House should be determined to persevere. Would that body have fortitude enough, even when they thought they had just cause, steadfastly to counteract the determined purpose of two hundred members boasting that they derived their appointments from the purest source; calling themselves the representatives of the people; and professing to speak the sense of their constituents? If not, the Legislative balance would be shaken to its centre, and the equilibrium of the Government destroyed.

This bill, after frequent discussion, was amended in the Senate, by inserting thirty-three thousand, as the ratio; the question on this amendment having been decided by the casting vote of the Vice-President. At the close of a full debate in the House of Representatives, in which, the effect of the ratio in determining the political preponderance appeared to be the governing consideration, this amendment was rejected. It was insisted upon by the Senate; and the House refusing to recede, the bill was lost.

A new bill, under a different title, but in substance like that which had failed, was introduced into the House. Strong objections were made to the fractions which the proposed ratio of thirty thousand would leave, as producing great inequality and injustice. An amendment was moved by Benson, in order to reduce these fractions, apportioning the representation among the aggregate number of the people of the United States. After much debate, this amendment was negatived. The bill passed, retaining the ratio of thirty thousand, and applying it to the separate population of the respective States.

The motive of the former amendment of the Senate was to diminish the number of large unrepresented fractions. To obviate this, and to retain the ratio insisted upon by the House of Representatives, the Senate proposed an amendment to the bill, which, after various efforts to modify it, passed by a majority of one vote.

Applying the ratio of thirty thousand, as proposed by Benson, to the aggregate population of the United States, the number of Representatives obtained was one hundred and twenty. This number was apportioned among the States, by that ratio, until they, respectively, had the number to which it entitled them; and the residue was then distributed among the States having the highest fractions.

By these two processes, as large a representation as the Constitution would permit, was obtained; and a more equitable apportionment to the population. But the political effect was prejudicial to the opposition; for, of the eight States to which an additional member was allotted, six, if not seven, returned a majority of members who were supporters of Hamilton's policy, while the effect of

the ratio, as applied to the State populations, was to give to Virginia, two additional Representatives.*

This consequence created much heat in both branches of the Legislature. In the House, the amendment of the Senate was denounced, as an arbitrary interpretation of the Constitution; as directly tending to destroy the individuality of the States; and to swallow them all up in a general consolidation. Should the House comply with the views of the Senate, a dissolution of the Union was spoken of, as an event in no very distant perspective. The amendment was disagreed to by a majority of one, and a conference with the Senate ordered. No compromise could be made. The Senate insisted upon its amendment, also by a majority of one vote. The House then resolved to recede from their disagreement. This was carried by two votes.

The National Gazette, which had been recently established by Jefferson and Madison, during the pendency of this question, opened an attack upon the Vice-President, denouncing him as having decided the question in the Senate.

Violent appeals were also made to popular prejudices at the moment when the bill was under the consideration of the President, in the hope of overawing him.

* Madison states, March 28, 1792, that of the one hundred and twenty members, "the number was so distributed, that the Southern States, and particularly Virginia, are deprived of the little practical advantage arising from the contingent operation of the constitutional rule." Ames wrote, December 23, 1791, "giving Representatives to the States, not according to their numbers, is no apportionment; but a flagrant wrong, and against the words and principles of the Constitution. The whole number of Representatives being one hundred and twelve, an apportionment of these to Virginia, according to her numbers, would give that State nineteen members. Yet the bill gave her twenty-one."—Ames, i. 108.

He consulted his Cabinet. Jefferson * gave the opinion, that the bill was to be viewed, "*either as a violation of the Constitution, or as giving an inconvenient exposition of its words,*" not having apportioned the Representatives among the States, *strictly* according to their numbers; providing for fractions, never intended by the Constitution; and leaving the determination of the question open, without any fixed principle. To which, he added, that the act had passed by small majorities of both Houses; the majorities admitting that the question was susceptible of either interpretation, but the minorities not admitting the constitutionality of the rule adopted. He observed, that "the non-user of the negative begins already to excite a belief, that no President will ever venture to use it; and has consequently begotten a desire to raise up barriers in the State legislatures against Congress, throwing off the control of the Constitution; that, it can never be used more pleasingly to the public, than in the protection of the Constitution;" that "no invasions of it are so dangerous, as the tricks played on their own numbers, apportionment, and other circumstances respecting themselves, and affecting their legal qualifications, to legislate for the Union;" that "the application of any one ratio is intelligible to the people, and therefore will be approved; whereas the complex operations of the bill will never be comprehended by them; and, though they may acquiesce, they cannot approve what they do not understand." Randolph concurred in opposition to the bill.

The Secretary of War was in favor of the bill, as giving a representation to the largest fractions; and, as the constitutionality of it was only doubted, not proved, he urged, that it was a delicate measure to decide against the sense of the Legislature.

* Jefferson's Works, vii. 594, ed. 1854.

Hamilton gave his opinion, that either mode proposed —an apportionment among the aggregate population of the United States; or among the particular numbers of the several States—might have been constitutionally pursued.

The Constitution having declared, that "Representatives and direct taxes, shall be *apportioned* among the several States according to their *respective numbers*," the same rule should be pursued as to each.

The process as to *direct* taxes, would be, to ascertain the total sum necessary, and then to apportion it among the States, by the rule, that, as the aggregate population was to the whole sum required, so the particular numbers of a State were to the proportion of such State—the exact process followed by the bill, and affording a strong argument for its constitutionality.

If no ratio had been mentioned in the Constitution, no other course could well have been pursued; no doubt, at least, of the propriety of that which has been pursued, could have been then entertained. There was nothing in the clause, mentioning the ratio, which confined its application to the *several* numbers of the States. It was inserted, to determine a proportional limit, which the number of the House of Representatives should not exceed; and this was as well satisfied by resorting to the collective, as to the separate population of the respective States. There was nothing, therefore, in the last clause, to control or direct the sense of the first.

"It is objected," Hamilton observed, "that the further process which apportions the residue among the States having the greatest remainders, renders the bill unconstitutional; because it renders the representation not *strictly* according to the *respective numbers* of the States. It may be answered, that this is but a necessary conse-

quence of the first principle. Either rule produces fractions, and this gives a preference to the largest remainders. If it makes the apportionment, not mathematically, 'according to the *respective numbers* of the several States,' so, neither would the opposite principle of construction. Fractions, more or less great, would, in this case also, and in a greater degree, prevent a conformity of the proportion of representatives to numbers. Upon the whole, the bill performed every requisition of the Constitution; and in a manner most consistent with equality.

"The Constitution may be susceptible of another construction; but there was no room to say the bill was unconstitutional; and, in cases where two constructions may reasonably be adopted, and neither can be pronounced inconsistent with the public good, IT SEEMED PROPER, THAT THE LEGISLATIVE SENSE SHOULD PREVAIL. The present appeared to him, clearly, to be such a case."

On the fifth of April, the President returned the bill to Congress with a message, stating his objections—that the Constitution prescribed that Representatives shall be apportioned among the several States, according to their respective numbers; and there is no one proportion or divisor, which, applied to the respective numbers of the States, will yield the number and allotment of Representatives, proposed by the bill—that the Constitution has also provided, that the number of Representatives shall not exceed one for every thirty thousand, which restriction, is, by the context and by fair and obvious construction, to be applied to the separate and respective numbers of the States, and the bill has allotted to eight of the States more than one for every thirty thousand.*

As the motives to controvert this decision must always

* Jefferson records in his "Anas," as of the following day—April 6, 1792, this *insulting* mention of Washington. "The President called on me before

exist, it will necessarily continue to be an open question. Still, an unbiassed consideration of the language of the Constitution can leave little room to doubt the correctness of Hamilton's view, that in determining the number of Representatives, the relative proportion of the Federal numbers of each State to the aggregate Federal numbers of all the States, should be ascertained and govern. The fitness of the second process in the bill, by which an allotment was made of the residuary members, is less obvious.

As to the practical effect of the principle recognized in the bill, which became a law, no doubt can exist. The amendment of the Senate would have produced a very

breakfast, and first introduced some other matter, then fell on the Representation bill, which he had now in his possession for the tenth day. I had before given my opinion in writing, that the method of apportionment was contrary to the Constitution. He agreed, that it was contrary to the common understanding of that instrument, and to what was understood at the time by the makers of it; that yet, it would bear the construction which the bill put; and, he observed, that the vote for and against the bill was perfectly geographical, a Northern against a Southern vote; and he feared he should be thought to be taking side with a Southern party. I admitted the motive of delicacy, but that it should not induce him to do wrong; urged the dangers to which the scramble for the fractional members would always lead. He here expressed his fear, that there would, ere long, be a separation of the Union; that the public mind seemed dissatisfied, and tending to this. He went home, sent for Randolph, the Attorney General, desired him to get Mr. Madison immediately and come to me; and, if we three concurred in opinion, that he should negative the bill, he desired to hear nothing more about it, but that we would draw the instrument for him to sign. They came. Our minds had been before made up. We drew the instrument. Randolph carried it to him, and told him, we all concurred in it. He walked with him to the door, and, as *if he still wished to get off*, he said, '*And you say you approve of this, yourself.*' 'Yes, sir,' says Randolph, 'I do upon my honor.' He sent it to the House of Representatives instantly. A few of the hottest friends of the bill expressed passion, but the majority were satisfied; and both in and out of doors, it gave pleasure, to have, *at length, an instance of the negative being exercised.*" Jeff. Works, iv. 466.

near approximation to equality; that adopted has induced very serious and increasing inequalities.

On the rejection of the second bill, a third was introduced; adopting the ratio first proposed by the Senate—of one member for every thirty-*three* thousand, according to which the Representatives were to be apportioned among the Federal numbers of the respective States. A violent opposition was made to this increased divisor. The constitutionality of this ratio could not be questioned; the objection urged was—the diminished number of Representatives it produced.

It was admitted, that this ratio would operate in favor of certain States, but their weight, it was said, bore no proportion in Governmental influence to their numbers. The equal representation of the States in the Senate more than counterbalanced any larger delegation in the other House. This principle of the Constitution, Giles pronounced, "a radical evil," of which the magnitude would be "proportioned to the extension of the objects of legislation." He, next, insisted upon the necessity of a large representation to counteract the influence of the administration; denouncing the Fiscal system—the assumption—the partial irredeemability of the debt—perpetual tax laws, the mortgage of their products to pay the interest of a perpetually existing debt; "as giving the Executive a qualified control over the best moneyed resources of the United States; and producing an unauthorized incorporation of that interest—placed, as far as possible, beyond the reach of future legislative influence, establishing the doctrine that one systematic financier was better able to originate money bills, and tax the people, than the whole collected wisdom of their Representatives; and creating a Sinking fund, without limitation, in the hands of a few Trustees, protected from legislative control, by all the

sanctions and securities annexed to private property." The bill passed.

Though, there had been a previous effort by Jefferson, Madison, and Randolph, to induce the interposition of the high power of the VETO, this was the first instance of its exercise; an interposition also at their solicitation; in neither case demanded by the Constitution; and, in both, they having in view, the preponderance of Virginia. On the other hand, though Hamilton was fully sensible of the value of this power, yet he regarded it, as "chiefly designed to resist an immediate attack upon the constitutional rights of the executive," or "where, the public good was evidently and palpably sacrificed." He believed, that, "it would generally be employed with great caution," and relied on its "silent and unperceived, though, forcible operation." *

Disregarding temporary or sectional considerations, his advice was in strict accordance with these views; his opinion being explicit, that "where two constructions may reasonably be adopted, and neither can be pronounced inconsistent with the public good, it seemed proper that the legislative sense should prevail;" and, it will be seen, that the only instance in which he advised a resort to the Veto, was to prevent a violation of the public faith.

This view was not merely in conformity with his conviction, that it was a power which ought to remain in repose, and rarely be exerted; but, with the sense of the Convention, throughout the greater part of its deliberations.

The first propositions laid before that body, contemplated an Executive of limited powers; to execute the national laws, and to possess the executive rights vested in Congress by the Confederation. The negative on the

* Federalist, No. 73.

laws, was to be confided to him, jointly with a Council of Revision, composed of "a convenient number of the National Judiciary;" and, operatively, it was a power, not of interdiction, but of intermission. The dissent was, to amount to a rejection, "*unless* the act of the National Legislature be *again* passed." This power, thus qualified, was to be confided, not to a single Executive with a command of the patronage of the Government, capable of being exerted upon a Senate of short duration, an associate in the appointing power—such Executive re-eligible; but, to a plural Executive, to be elected by the Legislature, whose acts were to be the subject of the negative; that Executive controlled by a Council—counterpoised by a Senate—to hold their offices for a sufficient time to induce their independency—ineligible to any office during their term of service, and for a specified term after.

Such, it has been seen, was the jealousy of the Executive magistracy, that it was proposed to vest the National Legislature with power to remove it, on the request of a majority of the States—a power only relinquished, for a provision, that it should be ineligible, a second time; and to this ineligibility was superadded, removability by impeachment. These guards were supposed to warrant this great trust being committed to ONE person.

The question of the Veto power being then presented, in order to test the sense of the body as to the kind of Executive in contemplation, and thus to adjust the balance requisite in the other departments; an absolute negative was proposed, but was *unanimously* rejected; even a right of temporary suspension of a legislative act was denied by a similar vote.

Still jealous of this power, it was again proposed to resort to the original restriction of a concurring Council of Revision; but this was not approved. And, when, af-

terwards, a vote of two-thirds of Congress was required to re-enact a law, though the Executive was to be chosen by that body, and was ineligible for a second term, it was again urged, that the Judiciary should have a voice in the exertion of the negative.

Hamilton, it is true, contemplated an unqualified Veto; but, this Veto was to be confided to a President, who, though to hold during good behavior, was checked by a Senate of equal durability; by a House chosen by *all* the *free* inhabitants of the nation; and, who was to be subject to an efficacious and independent tribunal of impeachment.

It was only, in the last days of its proceedings, that the Convention finally agreed, that a vote of two-thirds of Congress should be requisite to pass a law which had been negatived; under the supposition, that the reduction of the President's term to four years rendered this provision not only safe, but necessary, though he was reeligible; and, in the confidence, that the expounding power of the Judiciary would be binding and conclusive on the other departments—a clear and necessary principle in all limited Constitutions, applying not only to the General, but State governments.

If disregard of this principle, and a frequent abuse of this high prerogative, has menaced and overruled the freedom of the counsels of this nation, no sanction to it is found in Hamilton's views.

In his notes, preparatory to the preparation of the President's speech,* Hamilton particularly adverts to the establishment of "cross posts" to some of the important points in the western part of the Union. This idea was embodied in the speech at the commencement of this session. "The importance," it observed, "of the Post Office

* Hamilton's Works, iv. 184.

and Post Roads, on a plan sufficiently liberal and comprehensive, as they respect the expedition, safety, and facility of communication, is increased by its instrumentality in diffusing a knowledge of the laws and the proceedings of the Government; which, while it contributes to the security of the people, serves also to guard them against the effects of misrepresentation, and misconception. The establishment of additional cross posts, especially to some of the important points on the Western and Northern parts of the Union, cannot fail to be of material utility."

In pursuance of this suggestion, a bill was reported, designating the routes; authorizing contracts for carrying the mail; establishing a general Post Office under one Postmaster-General, who was empowered to appoint an assistant and deputy Postmasters, with numerous provisions to secure the safe conduct of the mail, and the due collection of the postage. When the clause in this bill designating the several routes was considered, well-founded doubts were entertained, whether any act would pass, owing to the diversity of views arising from local considerations. To avoid a difficulty which had often occurred under the Confederacy, Sedgwick moved a substitute, vesting the power of designating the routes in the President.

The question was raised, whether this power could be constitutionally exerted by any other than the Legislative department. The affirmative was contended for by Sedgwick, Bourne, and Benson. The negative, by Livermore, Hartley, White, Page, Vining, Gerry, Steele, and Madison.

There was no distinction, it was said, between this power and that relating to the Mint—to Excises—to the power of borrowing money. If this objection prevailed,

no part of the power could be delegated; the members might be compelled to perform in person every duty confided to them. In the delegation of power, the whole purpose was answered, when the rules by which the business was to be conducted, were defined by law. As a matter of expediency, it was strongly urged, that Congress could not possess the necessary information to meet the demands of the public, or to supervise a systematic execution of the laws; that they would act without any fixed responsibility; while, if the duty were imposed on the Executive, his utmost diligence would be exerted, in order to a satisactory execution of this delegated power. The unconstitutionality of this proposal was chiefly pressed by Madison, who, while he acknowledged the difficulty of determining with precision the exact boundaries of the Legislative and Executive powers, insisted, that the arguments by which this power was to be sustained, admitted of such a construction, as would lead to blending those powers, so as to leave no line of separation whatever.

"The Constitution," he observed, "had not only given the Legislature the power of creating offices, but it expressly restrained the Executive from appointing to offices, except such as are provided for by law. The President, is indeed invested with the power of filling those offices; but, it does not follow, that we are to delegate to him the power to create them. The power conferred upon the Executive, under the law of Excise, could not, he said, be considered as a parallel case; no similar *exigency* existing to justify a similar delegation. The argument, as to the danger of infringing the powers of the Executive might be carried so far, as to say, that we ought not to make any appointments by law; and yet

this has been done, as in the instance of the appointment of the Commissioners for purchasing the public debt, all of whom were appointed by the act making provision for the reduction of the debt. This subject is expressly committed to legislative determination by the Constitution. There does not appear to me any necessity for alienating the powers of the House, and this, if it should take place, would be a violation of the Constitution.

"If the Post Office were to be regulated by the will of a single person, the dissemination of intelligence might be impeded at his will, or the office branched out to such a degree as to render it a heavy burden. It was an advance towards monarchy, which, if not checked in season, would unhinge the Government."

In reply to Madison, Sedgwick remarked—"The position 'that the creation of offices was confined solely to the Legislature,' was undoubtedly just; if, by it, was meant, that the powers and duties of offices must be defined by law. But the objection went much further—that member declaring in substance, that all offices, however subordinate and dependent, must be numerically provided for, by law. The application of his principles to the power, which, on the same subject had been delegated by the Excise law, had been foreseen by the objector. Though, in fact, nothing more was done in that law than to define the powers and duties annexed to the offices; but the limits to which their authority was to extend, and their number, were very properly left to the Executive.

"Such a delegation was, in that case, indispensably necessary; nor was it less necessary in the multifarious arrangements of Post Offices. The member had supposed this necessity; and, in that instance, justified the expedient. The same conclusion might be drawn on the

present occasion. If, however, he were to assume that member's opinions, he would be incapable of deriving consolation from the same source he had done; for there never had, as yet, been, and probably never would exist, in the administration of this Government, a necessity so urgent as to authorize the usurpation of power. The motion before the Committee was constitutional, or not. If the latter, the same was true of the Excise Act, in the instance alluded to. In either instance, a supposed necessity could not justify the infraction of the Constitution. Gentlemen should be very cautious how, on slight grounds, they assent to principles which, if they were true, would evince that the Government had scattered through the country, officers who are daily seizing on the property of the citizens by the assumption of unconstitutional powers. This very bill authorized the Postmaster to establish Post Roads, not provided for, by it, and to appoint all his deputies—an authorization necessary to the public service, but involving a delegation of power not less objectionable nor differing in principle from that contained in the clause he had proposed to insert."

An Act passed,* designating the routes and prescribing the duties and powers of the Postmaster General. It embraced a clause which authorized him, where there was more than one route between the places designated, to direct, which should be considered as the Post Road!

Subjects that elicited much feeling in the first Congress, were now resumed, and finally acted upon; the regulation of the election of the President and Vice-President; and a declaration of the officer, who shall act as President in case of vacancies in those offices. The clauses of the bill as to the time of appointing electors—the returns and canvass of the votes, were passed with lit-

* February 20, 1792.

tle objection, as it came from the Senate; but, the provisions, in case of vacancies, excited great warmth.

The Act proposed, that the President of the Senate pro tempore, in case there should be no President of the Senate, or contingently, the Speaker of the House of Representatives, should act as President. White, of Virginia, moved to strike out this clause. In favor of this motion, it was urged by Giles, that those characters were not OFFICERS; and that, therefore, the clause was unconstitutional; that the Constitution referred to some permanent officer, to be created; that these persons were not permanent.

This objection was answered by reference to the Constitution, which authorizes "the House to choose their Speaker *and other officers.*"

After some debate, it was proposed by Benson, that the senior Associate Judge of the Supreme Court should be the officer to fill the vacancy, which was negatived; and a proposition of Giles, that the office should devolve upon the *Secretary of State*, passed.

This amendment was disagreed to by the Senate; and a law was enacted, declaring that the officers originally designated in the bill should fill the vacancies—a decision in which, although the importance of preventing this great trust from devolving upon an officer appointed by and removable at the pleasure of the Chief Magistrate, had an influence, were also mingled considerations, relating to the individual, then at the head of the State department.

While this subject was under discussion, various other matters of great public interest had occupied a part of the deliberations of Congress.

A short time after the commencement of the Session, a Report of the Secretary of the Treasury, stating the arrangements which had been made for carrying into ef-

fect the Excise, was communicated by the President. The discontents to which this law gave rise, had been regarded of sufficient importance to be alluded to in the speech; and it became a matter of early interest to ascertain which of its features could be altered, so as to obviate the objections to it.

At first, it was proposed to refer this subject to a committee; but, after some debate, on motion of Ames, it was referred to the Secretary of the Treasury.

Within a few days after, a letter was received from that officer, enclosing a Report and sundry estimates—one, relating to the civil list for the ensuing year; another, showing the amount of liquidated claims on the Treasury, and of the deficiencies in the estimates for the current service; and a third, relating to the expenditures of the Department of War, giving a total, exceeding one million of dollars, to meet which sum, it was supposed, that, in addition to the annual reservation of six hundred thousand dollars, the surplus of revenue, heretofore established beyond the sums necessary for the payment of the interest on the Debt, would be sufficient. It also appeared, from a Report of the Commissioners of the Sinking Fund, that eleven hundred thousand dollars of the Public Debt had been extinguished.

The estimates for the current service were referred to a Committee, of which Lawrence was Chairman, with instructions to prepare an appropriation bill.

Upon the consideration of this bill, it was objected by Parker, of Virginia, that it had only given gross sums; that no detail of the items was submitted; and that, therefore, the propriety of making the appropriation could not be judged of; that the sum contemplated to be granted was nearly double the amount granted in a former year; and that the expenditure of former appropria-

tions ought to have been examined. The propriety of a scrutiny into the public expenditures, was fully admitted by the friends of the administration, and further inquiry was invited; but, the general charges of increased expenditure, were repelled with not a little acerbity. The total increase was seen to be four hundred thousand dollars. To account for this difference, Boudinot observed, "He wished the gentleman from Virginia to turn to the Report of the Secretary of the Treasury, in which he would find a number of extraordinary calls for considerable appropriations; a considerable sum to the King of France; a large sum, the balance of an old account due; one hundred and twenty thousand dollars—a deficiency in last year's appropriation; considerable expenses in consequence of the increase of the army for the defence of the Pennsylvania and Virginia frontiers. These, if added together, would make up, nearly, the difference complained of. These extraordinary expenses were peculiar to this year, and could not be reckoned as an increase of "the annual expenses of the Government." After these statements, the several items in the bill were agreed to; the principles of the Act were adopted; and a committee was ordered to remodel it, so as to express the respective purposes for which the moneys were appropriated.

From the cavils of the opposition on this occasion may be inferred the temper which actuated its leaders. Of these, the more prominent on this occasion were, Parker and Giles.

Madison remained silent, until near the close of the debate; when he addressed the House, urging the propriety of a practice of periodical inquiries, such as had been made in the old Congress; and, of settling standing regulations on this subject, "before any idea of their necessity should arise from *suspicious* circumstances."

The practice had been *previously* suggested by Gerry, upon whose motion, a salutary regulation was established, requiring an annual account to be exhibited, at each session of Congress, of the expenditures under acts of appropriation. He showed, at the same time, "that accounts from the Treasury could never give the information wanted; they generally stated sums of money paid to individuals without mention of particular objects, to which they were meant to be applied. This was a favorable opportunity," he observed, "to establish some such regulations as were contemplated by members;" and, repelling the insinuation of Madison, he remarked, "our officers have had, and deserve the confidence of the people."

CHAPTER LXVIII.

An interesting question was at this time discussed, during the debate on a bill for the encouragement of the Fisheries.

This subject was brought before Congress, by a representation, made by the Commonwealth of Massachusetts, setting forth the necessity of Legislative protection to this important branch of industry. Its consideration appropriately belonged to the department of the Treasury, as involving important questions connected with the revenue. But, as it affected the interests of a section of the Union, in which it was deemed of great moment to acquire popularity; and might be employed as a mean of arraying the passions of New England, against Great Britain, and on the side of France—the friends of the Secretary of State caused the memorial to be referred to him.

A Report had been made by Jefferson during the previous Session of Congress,* but was not then acted upon.

The representation of Massachusetts stated, as the embarrassments to be corrected—*heavy duties* on their produce abroad; bounties on that of their competitors; and *duties* at home on several articles particularly used in the Fisheries; and asked, that those *duties* might be taken off, that *bounties* might be given to the fishermen;

* February 4, 1791.

and the national influence be used abroad for obtaining *better markets* for their produce.

The Report of Jefferson * commenced, with a history of the discovery of Newfoundland by the Cabots in fifteen hundred and nine; and proceeded, with a narrative of the Biscayans of Spain, the Basques and Bas Bretons of France; and, of the rise and progress of the Spanish, French, English, Portuguese, and American Cod fisheries to the period of the Report.

Having contrasted the advantages and disadvantages, which affected the United States in a conflict for them, he stated, "that it *will rest with the wisdom* of the Legislature to decide, whether prohibition should not be opposed to prohibition, and high duty to high duty, on the fish of other nations; whether any and which of the naval and other duties may be remitted; or an equivalent given to the fishermen, in the form of a drawback, or *bounty;* and whether the loss of markets abroad, may not, in some degree, be compensated by creating markets at home?"

The memorial presented specific subjects of consideration; and the Report admitted, that this fishery would be ruined, unless legislative aid was interposed. But, it merely suggested, that fish might be constituted "a part of the military ration; a part of the necessary sea stores of vessels; and the encouraging private *individuals* to let the fisherman share with the cultivator, in *furnishing the supplies of the table*"—a proposition, instead of legislative protection, of legislative encouragement of the tastes of the American people, a proposition to increase the number of Ichthyophagites!

A minute history was also given of the Whale fishery; of the rapid growth of the English fishery, by the

* American State Papers, vol. i.—Commerce and Navigation—p. 8.

grant and increase of bounties; and of the countervailing efforts of France, to allure the American fishermen to Dunkirk, by bounties. These failing, her reduction of duties on American whale oil; her subsequent exclusion of all foreign fish oils, which "palsied" the American fishery; and her recent decree opening her ports to American oils, while she continued "her endeavors to recover a share in this Fishery, by the aid of our fishermen," were mentioned.

The Report then raised the question as to the modes of relief; "a remission of duties" on the articles used for their calling—as to which, no opinion is given; "a retaliating duty on foreign oils" directed against Great Britain; and "free markets abroad." In discussing this last topic, the beneficial nature of the general trade with France, and her friendly dispositions, were insisted upon; and the necessity urged of counter regulations against England, who was represented, to have shown no disposition "to arrange this or any other commercial matter to mutual convenience;" and to have begun *ex parte* regulations "for mounting their navigation on the ruin of ours." Among these counter regulations, the exclusion of her vessels from the carriage of American productions, was represented, as offering the advantage of the protection and increase of seamen; and, as promising a full indemnity for the injuries which now were, and might be, sustained; while the idea was held out, that the Treasury might be relieved from the necessity of giving support to the Fisheries; and that a market for part of their products "may, *perhaps*, be preserved with nations, whose arrangements are friendly with us."

This important * subject had early engaged Hamilton s

* In 1840, the fishery tonnage of the United States was 188,000, being more than one-fifth of its total tonnage.

attention. In the act making further provision for the debt, in lieu of a drawback upon salt, a bounty was granted on exported fish. He subsequently was in correspondence with Cabot, in relation to it. A brief view * was taken by this Senator, of the commercial relations of the United States with France and Great Britain. From this view, it would seem, that the system of the former was the just object of solicitude to those interested in the fisheries of New England. Her efforts "to create a market in France for the produce of the whale fishery of the United States, had been of much benefit to us; but, partly from her fluctuating policy towards this country, and partly from the excessive premiums, she gives to her own vessels, it was feared, her whale fishery will be eventually established on the ruins of ours." If "counter regulations" for the protection of this great interest were the true policy of this country, why England should alone be selected as the object of them, it would be difficult to show.

The Report of the Secretary of State was referred to a Committee of the Senate, of which Cabot was Chairman; and, a bill for the encouragement of the Fisheries was reported by him. Hamilton soon after submitted to Congress a statement of the amount of the allowances.

Intending to give efficient aid to an interest, in all its aspects, of the highest importance, the framers of this bill wholly disregarded every suggestion of Jefferson's Report. The first section of it enacted, that the "bounty" now allowed, upon the exportation of dried fish of the fisheries of the United States, should cease; and that, in lieu of it, a "bounty" per ton should be paid to the owner of every vessel engaged in this trade, for four months of each fishing season, and qualified by law for carrying it on; three-eighths of this bounty to accrue to the owner,

* Hamilton's Works, v. 486.

and five-eighths to the fishermen employed, in proportion to the fish respectively taken by them, with a limitation of the total amount of the bounty on any such vessel.

In his closing remarks on the bill apportioning the Representatives in Congress, Giles is seen to have commented with much acrimony, though in general terms, on the policy recommended in Hamilton's recent report on manufactures, as designed to produce inequality among the citizens, and to enlarge the patronage of the Government.

That Report had conferred upon its author increased celebrity. As the protection of domestic industry appealed to the interests of large masses of the people; as it had been a part of the system of most of the elder States, during the Confederation; and was regarded, as a measure intimately connected with real National Independence, his opponents saw, with deep mortification, this new claim, presented by Hamilton, to the confidence and gratitude of the country.

Their course on this question was surrounded with difficulties. The experiment of a Free Trade had been made under the Confederation, and had failed; and, however popular it might have been, as a theory, by a people who had severely suffered from the restrictions of other nations, it was regarded as a visionary speculation.

Protection to industry, in the various modes in which it was to be conferred, was, in the public opinion, one of the first cares of the General Government. The Revolution had, indeed, been commenced to obtain an exemption from commercial "regulations;" and the means of resistance resorted to, in its earliest stages, were non-importations. Thus, in the popular mind, protection and ultimate freedom of trade, were identified.

The recommendation of bounties was less acceptable.

It was not difficult to represent a direct application of the money of the nation to the benefit of individual enterprise, keeping out of view its ultimate effect, in an invidious light; and to raise a mist as to constitutional provisions.

The bill for the encouragement of the fisheries placed this question distinctly before the Legislature.

Giles seized upon this occasion to renew his attacks upon Hamilton. He moved to expunge its first section, stating, that this was the first attempt of this Government to grant a direct bounty; that, in no part of the Constitution, could he find, in express terms, a power to grant bounties on occupations; that this power was neither directly granted, nor could, by any reasonable construction, be annexed to any other power specified in the Constitution; that it might be perhaps brought under a mode of construction, already adopted by the House—"Ways and Means," by which any power might be equally implied; but, he wished to see some connection between the specified power, and the means adopted for carrying it into execution.

There was a great difference, he remarked, between giving encouragement, and granting a direct bounty. By such a regulation, the product of one man's labor is transferred to the use and enjoyment of another. He questioned the policy of this measure as an encouragement of a National Marine—"Britain, surrounded by the sea on every side, finds a navy necessary for the support of her commerce; whilst America, possessed of an immense territory, and having yet ample room to cultivate that territory, has no occasion to contend, by sea, with any European power. Her strength and her resources are all to be found within the United States." This measure was also opposed by Williamson, Murray, Page, White, and Madison.

An objection had been taken to the word "bounty;" and, with a view to accommodation, Gerry moved to strike it out, and to substitute the terms "allowance made." To this, it was replied, that the proposed amendment would not change the principle, for the act provided, that, "in case, the moneys appropriated" to pay the duties were inadequate, "the deficiency *should be supplied from the Treasury.*"

The bill was zealously supported by Ames, Barnewell, Goodhue, Gerry, Lawrence, and Livermore. In defence of its general policy, the importance of the fisheries to promote the National wealth; and as a nursery of seamen; was much dwelt upon. This export, it was stated, had brought into the United States more than a million of dollars, annually; much of it in gold and silver. It furnished subsistence to thirty thousand persons, including four thousand seamen. The fishing towns are built on the naked rocks or barren sands on the side of the sea. Those spots, where trade would sicken and die; which husbandry scorns to till; and which nature seems to have devoted to eternal barrenness, are selected by industry to work miracles. Houses, stores, and wharves are erected, and a vast property created, dependent upon the success of the fisheries. It would be bad economy, as well as bad policy, to suffer rival nations to ruin them. Their regulations tend to produce this effect. "France and England equally endeavor to mount their marine" on the destruction of our fishery.

The success of our efforts will continue to increase the amount of the bounty paid by England, and other foreign Nations. They will be compelled, to yield at last; and we shall enjoy, alone, an immense fund of wealth, which nature has made ours; and, though foreigners disturb the possession, we shall finally enjoy it, peaceably and ex-

clusively. If the lands of Kentucky are invaded—you drive off the invader at the general expense, and so you ought; why shall we not protect our domain upon the Ocean?

Another, and an important view is, the Naval protection, of which it will be the source. Our trade is increasing rapidly; the richer that trade, the better the prize to the enemy. Can the planter, who takes up arms to protect his harvests on shore, be so much deceived as to wish to have it unprotected, when afloat? Thrown out of employment by war, the fishermen are instantly in action. Their mode of life makes them expert and hardy. They cast anchor on the banks, three hundred leagues from land, and with a great length of cable ride out the storms of winter. If the gale proves too strong, they often sink at their anchors. Forever wet, the sea almost becomes their element—cold and labor, in that season of frost, brace their bodies; and they become as hardy as the bears that walk around them on the floating fields of ice. Their skill and spirit are not inferior. Familiar with danger, they despise it. "If I were to review their exploits," added Ames, "the theme would find every American heart already glowing with the recollections of them. It would kindle more enthusiasm than the subject requires. My view only is, to appeal to facts, to evince the importance of the fisheries, as a means of Naval protection. It is proper to pass over Bunker's Hill, though memorable by the valor of a regiment of fishermen; nor, is it necessary, to mention further, that five hundred fishermen fought at Trenton. Manning our privateers,* they supplied us with merchan-

* It is stated, that a privateer of sixteen guns and one hundred and fifty men, in one cruise, took more than twenty ships, and more than two hundred guns, and nearly four hundred men. Those from a single district of Massa-

dise and military stores, without which, the war could not have been continued."

An examination was next made of the details of the bill; and, it was stated, that it contemplated conferring no greater advantages than the merchants enjoyed by the existing laws. The merchant is now entitled to the drawback. Experience has proved, that this provision does not produce the encouragement required by the fishermen; and, the object of the bill was, to give the drawback a new direction. It was, to take the proceeds of the salt duty,* and pay them back in bounties. Instead of this single duty on salt, the Secretary of State had proposed a drawback of duties on *all* foreign articles, used in the fisheries. This bill merely transfers the drawback on that essential article, from the hand of the merchant, to that of the fisherman. But were a bounty on this occupation required, is not Massachusetts entitled to similar benefits with those conferred upon the landed interest? We have laid a duty on hemp and malts. Are not these duties bounties to the producer? We contribute largely to the protection of the Western frontier. We go further, and vote presents to the savages. There is no express clause in the Constitution, to authorize us to pay tribute! A commercial war is waged upon our fisheries by nations who lay prohibitory duties, and apply their produce in bounties—Will this allowance to support our commerce, be refused, without which, it will be as effectually ruined, as if our vessels had been captured by the enemy? Is it intended? Is it wished, that our seaboard should be

chusetts took more than two thousand vessels, then one-third of the British merchantmen; and brought in near twelve hundred.

* The salt duty on the amount exported, was estimated at $43,944. The Tonnage Bounty required, would be $44,000.

depopulated, and our hardy seamen driven off, to clear the forests of the West?

We are told that we do not want a Navy—but shall we never have a war with a European power? May not the time arrive, when the protection to the commerce of this country, derived from this source, may be of the utmost necessity to its existence?

An effort had been made by the supporters of the Secretary of State, to distinguish between the proposed application of the drawback, and a direct bounty. It was declared, nevertheless, by the friends of the bill, that "Bounty" was the proper and technical term to convey the idea; and, that the extra duties previously laid to encourage various branches of our own manufactures, and for which their opponents had voted, were, to all intents, indirect *bounties*, founded on the idea, only, of their conducing to the *general interests*. The Constitution contained general principles and powers only. These powers depended "on *particular* laws" for their operation; and the execution of them must, in various circumstances, extend to the grant of bounties. Would it be contended, that, during a war, the General Government has not the power to grant a bounty on arms and ammunition, should the general welfare require it? The general welfare is necessarily connected with any object or pursuit which, in its effect, adds to the riches of the country. The objection of unconstitutionality is given up by those in opposition to the bill, who admit of encouragement to the Fisheries, in any possible modification of it.

These observations afforded the occasion for an elaborate argument against the constitutionality of the proposed measure, which was chiefly prompted by the opinion expressed, and the policy recommended, in Ham-

ilton's "Report on Manufactures," recently laid before the House; and which, after an exposition of it by Giles, in terms intended to excite alarm, had been referred to a committee. This opinion was, "that there seemed no room for a doubt that whatever concerns the general interests of learning, of agriculture, of manufactures, and of commerce, is within the sphere of the National Councils, as far as regards an application of money; provided, the object be general, not local." The policy, it is seen, that he recommended, was a direct grant of bounties.

Madison observed, "that in the conflict which existed between his disposition to afford a constitutional encouragement to the Fisheries, and his dislike of the consequences, apprehended from some of the clauses in the bill; he should have forborne the discussion, if he had not found, beside the arguments pertinent to the subject, others had been introduced, which were, in his judgment, contrary to the true meaning, and even strike at the characteristic principles of the existing Constitution.

He made a material distinction between an allowance "as a mere commutation and modification of a drawback, and an allowance * in the nature of a real and positive bounty," † and he made a distinction, "as a subject of fair consideration, also, between a bounty granted under the particular forms in the Constitution—a power to regu-

* In the fourth section of the Act, making further provision for the payment of the debts of the United States, an allowance was granted in lieu of a drawback. It passed on the 19th July, 1790—40 to 15. Madison *voted for it*. Hence this distinction.

† In the 41st No. of the Federalist, *Madison* used the following language: "In a more remote stage, the imports may consist in a considerable part of raw materials, which will be wrought into articles for exportation; and will, therefore, require, rather the encouragement of *Bounties*, than to be loaded with discouraging duties. A system of Government meant for duration, *ought* to contemplate these revolutions, and be able to accommodate itself to them."

late trade'—and one granted under the indefinite terms, cited as authority on this occasion. The term 'bounty,' as here applied, is improper; not only because offensive to some; in the opinion of others carries a dangerous implication; but also does not express the true intention of the bill, as avowed by its patrons—a reimbursement of the sum advanced."

"The supposition that the authority not only to grant bounties merely as a commutation for drawbacks, but under a power, by virtue of which, they may do any thing which they think conducive to the general welfare; raises the important and fundamental question, whether the general terms cited are to be considered as a sort of caption or general description of the specified powers, and as having no further meaning; and giving no further power than what is found in that specification; or, as an abstract and indefinite allegation of power, extending to all cases whatever; to all such, at least, as will admit the application of money, which is giving as much latitude as any Government could well desire.

"I have always conceived—I believe those, who proposed the Constitution, conceived; and it is still more fully known and more material to observe, that those who ratified the Constitution, conceived, that this is not an indefinite Government, deriving its powers from the general terms prefixed to the specified powers; but a limited Government, tied down to the specific powers, which explain and define the general terms.

"If these terms be taken in the broad sense maintained, the particular powers, afterwards so carefully and distinctly enumerated, are without meaning; and must go for nothing. For it would be too absurd to say, first, that Congress may do what they please; and then, that they may do this, or that particular thing. After giving

Congress power to raise money and apply it to all purposes which they may pronounce necessary to the general welfare, it would be absurd to superadd a power to raise armies, to provide fleets, etc. The meaning of the general terms, must either be sought in the subsequent enumeration, which limits and details them; or they convert the Government from one limited, as hitherto supposed, to the enumerated powers, into a Government without any limits.'

"The terms 'common defence and general welfare,' are not novel terms, first introduced into this Constitution. They are repeatedly found in the old articles of Confederation, where they are susceptible of as great a latitude as can be given to the context here. It was never supposed they conveyed any such power, as is now assigned to them. It was considered clear and certain, that the old Congress was limited to the enumerated powers; and that the enumeration limited and explained the general terms.

"This novel interpretation of these terms, would not only give Congress complete legislative power, but would supersede all the restrictions understood to lie on their power with respect to the Judiciary. Other consequences, more extensive, must be admitted, or the doctrine must be given up. Congress may take the case of religion into their own hands; they may establish teachers in every State, county, and parish, and pay them out of the Public Treasury; they make take, into their own hands, the education of children; the regulation of all roads. Every thing, from the highest object of State legislation, to the most minute object of police, would be thrown under their power, for all admit the application of money; and might be called, if Congress pleased, provisions for 'the general welfare.'

"The language held in various discussions of this

House is a proof, that the doctrine in question was never entertained by this body. The arguments have always been drawn from the peculiar nature of this Government, as limited to certain enumerated powers.

"It has been asserted, that, because in the regulation of trade, indirect and eventual encouragement is given to manufactures; that Congress have power to give money in direct bounties, or to grant it in any other way, that would answer the same purpose. Surely there is a great and obvious difference. A duty on imported implements of husbandry, would be an indirect tax on exported produce. Will it be said that, by virtue of a mere power to lay duties on imports, Congress might go directly to the produce or implements of agriculture, or to the articles exported? Duties on exports, are expressly prohibited; but, if there were no article forbidding them, a power directly to tax exports, could never be deduced from a power to tax imports, although such a power might directly and incidentally affect exports. The power established in the latitude contended for, would subvert the very foundation, and transmute the very nature of our limited Government. As to the question before the House, it is immaterial, whether the clause be struck out, or so amended, as to rest on the avowed principle of a commutation for the drawback; but, a substitute being prepared, he should vote for striking it out, governing his final vote by the modification which may prevail."

After further debate, the motion to strike out this clause was negatived.

The modification which prevailed was, the substitution of the word "allowance" for that of "bounty," wherever that phrase occurred in the bill. In this form, Madison *voted in favor of its passage;* although the section was retained, by which a deficiency, beyond the money which

remained in consequence of the abolition of the existing allowance on the exportation and of the drawback, was directed to be supplied out *of any moneys in the Treasury not otherwise* appropriated!

This "allowance" for the deficiency, being "in the nature of a real and positive 'bounty,'" the principle against which he had argued was, by his vote, explicitly recognized. The bill finally passed, with the substitution of the word "allowance" for "bounty," as it came from the Senate, by a large majority.*

The language of Madison in this debate was well calculated to alarm the mass of the people. An attempt was also made to awaken distrust in the mind of the President. Soon after this discussion, a conversation was held with him by Jefferson. In this conversation, after charging the Treasury Department as the single source of the public discontents; and imputing to it, the contrivance of a system for deluging the States with paper money, instead of gold and silver; (probably alluding to the incorporation of the Bank of the United States,) he said, that a proposition had been brought forward, "far beyond any one ever yet advanced, and to which the eyes of many were turned, as the decision which was to let us know, whether we live *under a limited* or *an unlimited* government."

He stated, that the Report on manufactures "under color of giving *bounties* for the encouragement of particular manufactures, *meant to establish the doctrine*, that the power given by the Constitution to collect taxes to provide for the *general welfare* of the United States, permitted Congress to take every thing under their management, which *they* should deem for the *public welfare*, and which is susceptible of the application of money; conse-

* February 9th, 38 to 21.

quently, that the subsequent enumeration of their powers was not the description to which resort must be had, and did not, at all, constitute the limits of their authority." He also wrote to Governor Lee, of Virginia: "What think you of the commentary on the terms 'general welfare?' The Federal Government has been hitherto limited to the specified powers by the greatest champions of latitude in expounding those powers. If not only the *means*, but the *objects* are unlimited, the parchment had better be thrown into the fire at once."

The character of the representation to the President will be obvious, if the terms of that Report are referred to.

It stated, that the phrase "general welfare" was intended to signify more than the power to apply the revenues of the State, to the payment of its debts, and to the common defence; because, otherwise, numerous exigencies incident to the affairs of a nation would have been left without provision. Hamilton there remarks; "It is of necessity left to the discretion of the Legislature, to pronounce upon the objects which concern the general welfare, and for which, under that description, an appropriation of money is requisite and proper; and, there seems no room for a doubt, that whatever concerns the general interests of learning, of agriculture, of manufactures, and of commerce, are within the sphere of the National Councils, as far *as regards an application of money.*"

Hamilton then adds, that, "the only admissible qualification is, that the object of the appropriation should be *general*, not local. But that no objection ought to arise to this construction, from a *supposition, that it would imply a power to do whatever else should appear to Congress, conducive to the general welfare; a power to appropriate*

money with this latitude, which is granted too, IN EXPRESS TERMS, *would not carry a power, to do any other thing, not authorized in the Constitution; either expressly, or by fair implication.*"

In the face of this explicit language, Jefferson declared, that it was the Federal doctrine, that this phrase was an extension of the powers specifically enumerated, *to whatever would promote the general welfare*—"by a mere grammatical quibble—a claim of universal power."!

His representations are the more remarkable, from the fact, that in his Cabinet opinion against the constitutionality of the Bank, he had construed this clause of the Constitution, precisely as it was interpreted by Hamilton; declaring, that it meant "to lay taxes for the *purpose* of providing for the general welfare." "Congress are *not to do* any thing they please to provide for the general welfare, but only to lay taxes for that purpose." This opinion, thus misrepresented by him when espoused by Hamilton, he subsequently reaffirmed.

That this charge was made by him, with a full knowledge that it was without foundation, is clearly shown by the language of the Report on manufactures, which gave rise to Jefferson's comment. When speaking of the advantages to be derived from facilitating transportation, "by the improvement of inland navigation;" Hamilton remarked, "It were to be wished, there was no doubt of the power of the National Government to lend its direct aid on a comprehensive plan. This is one of those improvements which could be prosecuted with more efficacy by the whole, than by any part or parts of the Union." Had he intended the construction imputed to him by Jefferson and by Madison, is it possible, he would have admitted such a qualification?

On referring to his exposition of this part of the Con-

stitution, it will be found that the views of Madison were analogous to those of the Secretary of the Treasury. In previous numbers of the Federalist, Hamilton had, repeatedly, and with studious emphasis, declared, "that it is both unwise and dangerous, to deny the Federal Government an *unconfined* authority, in respect to all those objects, which are *intrusted* to its management"—that "the Confederation, feeble as it is, intended to repose in the United States an unlimited power of providing for the pecuniary wants of the Union"—"that, there ought to be no *limitation* of a power destined to effect a purpose, which is itself incapable of limitation;" that the power of making a provision "ought to know no other bounds, than the exigencies of the nation, and resources of the community." But he also explicitly stated, "that the plan of the Convention declares, that the power of Congress shall extend to certain enumerated cases. This specification of particulars evidently excludes all *pretensions* to a *general legislative authority*."

These opinions Madison distinctly sanctioned. He observed, that "the power of levying and borrowing money being the sinew of that which is to be exerted in the *National defence*, is properly thrown into the *same class* with it. This power *has* also been examined already with much attention, and has, I trust, been clearly *shown* to be necessary, both in the *extent* and *form* given to it by the Constitution." In the same number of the Federalist, tracing protection as one of the incidents to the power of internal taxation, he remarks—"The imports may consist in a considerable part of raw materials which will be wrought into articles for exportation, and will therefore require rather the encouragement of *bounties*, than to be loaded with discriminating duties."

He then proceeds to state, and to refute the interpre-

tation given to the Constitution, by its enemies; that this power to lay and collect taxes amounted to "an unlimited commission to exercise every power which may be alleged to be necessary for the common defence and general welfare." "No stronger proof," he said, "could be given of the distress under which these writers labor for objections, than the stooping to such a misconstruction." He then declares, that the preceding general power was qualified by the enumeration of particular powers inserted; but he defines this very power, as a power, "*to raise money for the general welfare.*" *

Thus, it is seen, that in the cotemporary commentary of the Constitution, both of the commentators agreed. Both rejected the allegation, that this clause conferred a power of general legislation. Both admitted, that the terms "general welfare" expressed comprehensively the objects for which money was to be raised and applied.

In what, in this instance, did these expounders of the Constitution differ? Hamilton adhered to the construction he originally gave to it. Madison abandoned that exposition, pronounced it "a novel interpretation," and "stooped to the misconstruction" he had stigmatized.

In defence of the position which he now assumed, Madison represented this important phraseology, "to provide for the common defence and general welfare," as "a sort of caption or general description of the specified powers;" and as having no further meaning and giving no further power than what is found in that specification.

These terms, "common defence and general welfare,' are found in the preamble of the Constitution; and, being there, must have been intended to declare its general ob-

* Fed. No. 45. See also Madison's observations as to an uncontrolled power of raising money, in the Virginia Convention.

jects. They are also found in the eighth section of the first article, which declares "the power which Congress shall have." How extraordinary must that interpretation be, which admits them to have a meaning in one part of that instrument, and declares them to be without meaning in another; or leaves no other alternative, than to pronounce them without meaning, in both!

These terms are represented as a "caption" of the subsequent specified powers. Those powers are also embraced in the same section of the first article. If they are to be regarded as a caption of the whole, they must be a caption of every part of the whole, but to the last of these specifications they are entirely inapplicable. That specification* is not a grant of a specific power, but a mere provision to give due efficacy to those previously granted.

Madison contended, that "if these terms be taken in the broad sense maintained, the particular powers afterwards so carefully and distinctly enumerated, are without meaning, and must go for nothing. After giving Congress power to raise money and apply it to all purposes which they may pronounce necessary to the general welfare, it would be absurd to superadd a power to raise armies, to provide fleets."

It is a remarkable defect of this argument, that this construction produces the effect which it deprecated. It renders the important phrase, "to *provide* for the common defence and general welfare," wholly "without meaning." Rejecting, as must be done, the idea that this language confers a distinct independent power; it must

* "To make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

designate the purposes for which the taxes are to be collected, or it "must go for nothing." *

If this phrase gives the power of raising money for the common defence, it is objected, "why superadd the power to raise armies, to provide fleets?" The answer is, that this addition was not necessary. In the language of the objector, "It is involved in the power of declaring war. It is involved in the power of self-defence." †

It may be objected, with equal force, why, to the power of raising and supporting armies, and of providing and maintaining a navy, superadd, that of making "rules for the government and regulation of the land and naval forces?" This is involved in the foregoing power. Why, after granting power to define and punish felonies committed on the high seas, give that of making "rules concerning captures on land and water?" This, also, is involved in the former. Or why, to that "to coin money," add the power to regulate "the value" thereof?

The answer to all these objections is, that they are defective pleonasms, borrowed from the articles of Confederation, to which only they were appropriate; because those articles prohibited all powers not *expressly* delegated; a prohibition which was, in vain, sought to be embodied in the Constitution.

"Suspicion may ask," Hamilton observed, "why, after giving Congress power over the revenue—over the National force—over commerce—introduce that of making *all laws necessary and proper for carrying into execution the foregoing powers.*" The answer is in his own words,‡ "*that it could only have been done for greater caution,*

* *The preamble to the Impost Act of July 4, 1789, voted for by Madison,* is a legislative exposition of this clause of the Constitution.

† Federalist, No. 41, by Madison.

‡ Federalist, No. 33, by Hamilton.

and to guard against all cavilling refinements, in those, who might hereafter feel a disposition to *curtail* and evade the legitimate authorities of the Union." *

In defence of this proposed limitation as to the application of the money of the nation, "the articles of Confederation" were referred to. The Constitution is only to be construed from its terms. These articles may not be taken into view. But, if admitted as a test, they warrant a conclusion, opposite to that they are quoted to support.

The first of these articles gives "the style" of the Confederacy. The second, is cautionary, to retain to the individual States "every power, jurisdiction, and right, not expressly delegated." The third, expresses the objects of the League, "firm friendship—*common defence*—the security of their liberties—their *mutual* and *general welfare*." The fourth, provides certain mutualities, to secure that friendship. The fifth, provides for a general Congress "to manage the 'general interests.'" The sixth, contains provisions to prevent the States, by their acts, from obstructing the Congress in the management of those "general interests." The object of the seventh is, to secure to the States the command of the land forces raised for the common defence; and the eighth directs that "all charges of war and all other expenses, that shall be incurred for the *common defence*, or *general welfare*," shall be defrayed out of a common Treasury. The ninth, defines the powers of Congress, but the power there defined, as to the application of the revenue, is declared to be for the objects mentioned in the preceding article. The expenses were to

* Referring to the same objection, Madison remarks—"How difficult it is for error to escape its own condemnation." —Federalist, No. 41.

be such as should be "necessary for the defence and welfare of the United States."

Thus, no limitation exists in these articles, as to the application of the Revenue, except that it shall be for "the common defence or general welfare." The Confederation, and the Constitution, both, conferred power in the application of the public resources, commensurate with these great and necessary objects.

In opposition to his recent opinion, the comment of Madison may be quoted. After remarking, that the change proposed by the new Constitution, "consists much less in the addition of new powers to the Union, than in the invigoration of its original powers;" he observes, "the change relating to taxation may be regarded as the most important; and yet, the present Congress have as complete authority to *require* of the *States indefinite* supplies for the *common defence* and *general welfare*, as the future Congress will have to require them of *individual citizens*." *

The fact, that this opinion of Hamilton was, by the perverted interpretation of it, effectively employed to mislead public sentiment; and the importance of a correct interpretation of this part of the Constitution, may warrant this extended comparison of his views, with those of his adversaries, who, at any sacrifice of character and consistency, had resolved to undermine his hard-earned popularity.

* Federalist, No. 45.

CHAPTER LXIX.

During the early part of the discussion of the bill for the encouragement of the Fisheries, the Secretary of the Treasury had been engaged in preparing a Report, the object of which was, to complete the system of public credit, originally proposed by him.

This Report was called for, by the motion of a Representative from Rhode Island—a creditor State, much interested in the assumption of the burthens incurred in the prosecution of the war. Upon this motion, Hamilton was directed to report the amount of the subscriptions to the Domestic loans, which had been authorized; and, of the parts which remained unsubscribed; together, with such measures as were, in his opinion, expedient to be taken on the subject. The Report was made on the seventh of February.

Thirty-two millions of the Domestic debt* had been funded—of the unsubscribed residue, about ten and a half millions were chiefly held by foreigners, most of whom were disposed to convert it into stock. Another part, was in Loan Office certificates, bearing interest on the *nominal* sum. The holders of these certificates had re-

* At this time, February 1, 1792, the market price of the debt was:—Six per cents, 127¼ per cent.; Three per cents, 76¾ per cent.; Deferred sixes, 77½ per cent.

monstrated against the Funding act, as having towards them a compulsory aspect, by refusing a temporary interest, until they embraced its provisions. The provision for interest on the nominal sum rendered their contract more beneficial than that of the other creditors. It was expected that they would have acquiesced in a measure, having in view the accommodation of the government under circumstances, with respect to which, Hamilton remarked, "it has been demonstrated by *subsequent events*, that the accommodation desired was consistent with the best interests of the public creditors." The operation of the provision for exchanging their certificates, he presumed, was not adverted to by Congress, or an exception would have been introduced. But, as good faith required, that their election should be free, he advised, that the obligation to make such exchange be dispensed with; and that they be permitted to receive the same interest for the past and present year, as if they had subscribed to the first loan. As to those, who should choose yet to subscribe, he suggested, that the terms of the former loan be again proffered. Of the assumed debt, four and a half millions were unsubscribed; and a strong desire,* existing to make further subscriptions, he proposed to extend the time, either restricting the amount within the original limits, or embracing the residuary debts of the States.

In this Report, he renewed his former recommendation of "an immediate general assumption," strengthened by the additional motives of the ascertained benefits of the measure; the greater contentment a complete exoneration of the States would produce; its effect, in settling the value of those debts; and preventing them, by an under valuation, being transferred to foreigners.

* New Hampshire, Rhode Island, and Massachusetts had, each, asked a further assumption.

The only objection that could be anticipated, the requiring additional funds, was obviated by the consideration, that an equal or nearly equal amount would be requisite to provide for greater balances in favor of certain States, which would be proportionally diminished. Such further assumption would add to the previous loan, about four millions of dollars. The increased demand upon the Treasury, produced by a further loan, he proposed to meet, by an effectual provision for the sale of the public lands; as a material part of his plan for sinking a portion of the debt, and facilitating arrangements as to the residue. If supplementary Revenue should be needed, he proposed to defer raising it, until the next Session of Congress; when the product of the existing Revenue, and the extent of the sum to be provided, might be better ascertained.

He also advised, that authority should be given to pay the debts to the foreign officers who had served during the Revolution, which had not been comprehended within the provision for the Foreign debt; and, it being questionable whether it could be regarded as a part of the Domestic debt, the interest thereon had been suspended. Payment of this debt, independent of considerations of a weighty and delicate nature, was advisable; as the interest on it was payable abroad, and therefore it could be discharged with a saving. If not paid, he stated the necessity of providing for that interest, and giving authority to remit it.

The last and most important suggestion was the establishment of a systematic plan of a Sinking Fund. With this view, he proposed, that the principle should be adopted, that all the interest on the debt purchased or paid off, from time to time, be set apart, and appropriated to sink the debt, in a specified mode; and be so vested "as to ac-

quire the nature and quality of a proprietary trust, incapable of being diverted, without a violation of the principles and sanctions of *property*." Important future additions to this fund, he thought, might be made; and that, "with due attention to ORDER and PEACE; a strong expectation might be indulged, that a reduction of the debt of the country will keep pace with the reasonable hopes of its citizens."

Jefferson's Gazette had teemed with essays hostile to the Funding system, as imposing *perpetual taxes*, preparatory to a direct attack upon it. This attack was now made.

A series of resolutions was introduced by Fitzsimmons, to carry into effect the propositions contained in this Report. The first of these resolutions was; to extend the time of subscribing to the Domestic debt, on the same terms with those prescribed in the act making provision for that debt.

On this question, the floor was taken by Mercer; a new member, recently elected to fill a vacancy in the delegation of Maryland; and, who became chiefly conspicuous for his devotion to Jefferson, and for the virulence of his hostility to the Secretary of the Treasury.

On this occasion, he would seem to have been the vehicle, not only of the opinions, but of the language of Jefferson, who now called in question the right of funding the debt, and manifested unreserved hostility to the whole system of finance which had been established.

In lieu of the resolution, he offered a substitute to the effect, that the subscribers should receive a five per cent. stock for the principal subscribed, and a three per cent. stock for the interest due, until the principal should be redeemed.

In favor of this substitute, he broached the most ex-

traordinary heresy* which has ever been admitted among the reveries of the wildest fanatics—a heresy at war with the existence of civilized society. He declared, that the House was now free to act for the benefit of the United States; that the holders of the unsubscribed debt had not accepted the terms proposed; they, therefore, stood on the terms of the original contract. He questioned the right

* Six months before the adoption of the Constitution, Jefferson wrote to Washington:* "The ENGLISH credit is the first, because they never open a loan without laying and appropriating taxes for the payment of the interest. . . . If they (the moneyed men) see that we set out on the ENGLISH PLAN, the first degree of credit will be transferred to us. . . An act of the new government, therefore, for opening a loan in Holland for the purpose of paying the French debt; laying taxes at the same time for paying annually the interest and *a part of the principal*, will answer the two valuable purposes 'of ascertaining our credit and paying that debt'—and, in a letter, of the next day, to Madison—he observed, 'Equal provision for the interest, adding to it a certain prospect for the principal, will give us a preference to all nations, the English not excepted.'' Five months after, he wrote to Madison: †—"The question whether one generation has a right to bind another seems never to have been started either on this or our side of the water.

"The earth belongs to the living. No man can, by *natural right*, oblige the lands he occupied, or the persons who succeed him in that occupation, to the payment of the debts contracted by him—what is true of every member of society individually, is true of them all, collectively. The period of life of persons of ripe age, or twenty-one years, is thirty-four years more. The conclusion, then, is, that neither the Representatives of a nation, nor the whole nation itself assembled, can validly engage debts, beyond what they may pay, in their own time; that is to say, within thirty-four years from the date of the engagement. Every *Constitution* and every law naturally expires at the end of thirty-four years. If it be enforced longer, it is an act of force, and not of right."!!!

"At first blush it may be laughed at, as the dream of a theorist; but, examination will prove it to be solid and salutary." "It would furnish matter for a fine preamble to our first law for appropriating the public Revenue."!!

* Jefferson's Writings, vol. ii. 302, 304.
† Ibid., vol. iii. 27 to 31.

of Congress to mortgage the revenues of the nation. That a deferred stock and an irredeemable quality are, in violation of natural right and of the Constitution of the United States, could, he averred, be easily demonstrated. As exigencies would happen hereafter, as well as now; and as governments will always have the natural right of subsisting themselves, and providing for such exigencies as they arrive, they will find the necessity, and with it, the natural right of reversing the system, and of repealing the mortgages already made to the extent of the necessity their judgment may require. The right existing to undo what was done, decides the question, that nothing can have been rightfully done by the preceding Legislature, which the succeeding Legislature cannot as rightfully undo. A power of mortgaging the public revenue or laying an irrepealable tax, being repugnant to natural reason, will, he trusted, not be found in the letter of the Constitution, and will appear utterly inconsistent with its spirit. In no part of it, is such a power expressed or implied. It is not in the power of laying taxes, because this is laying taxes without repeal; and there is no such additional clause in the Constitution. It is not in the power of paying debts; as it is physically impossible to raise, by their authority, all the money, without interfering with the rights of a future Congress. All that is incumbent on them to do, is, to raise as much as they can; and then the unperformed obligation descending upon the succeeding Legislature, with equal force, constitutes the true and only real principles of credit in a free government; for no theory will admit the position, nor will practice support the idea, that the principles of morality and the force of public faith, will be confined to one session. A future Legislature will do as we have done; contrive to pay as much as they can. The grand

and important question yet remains to be discussed—Can one generation sell or mortgage the labor of another generation? of posterity? Are they the judges of the extent and conditions? That they cannot, and are not, is as demonstrable as any proposition in Euclid. The God of nature has given the earth to the living. We have a right to the fruits of our own industry—they to theirs. There is a period at which the majority of the adults now living will give place to a majority of adults equally capable; a period not beyond twenty years. Can any exigencies require an anticipation for more than twenty years? Go beyond this, and you seize on the rights of posterity; pass this bound, there is none other that nature or reason can assign. Such a principle is against the laws of God and man. It inverts the whole order of society. It sweeps away, in a torrent, every check and safeguard of government; and arms any despot, any administration, with means not sanctioned by nature to bind in chains their fellow men."—"A Funding system once begun has always increased. We have funded fifty millions. Twenty more are proposed to be added. A mass, compared with our relative wealth, greater than the debt of Great Britain. Every atom of funded debt is so much taken from the value of land in the hand of the landholders, and so much diminished from the value of labor to the laborer. The system has produced great evils; it has produced none of the benefits predicted.* Let as much of it be paid, and as fast as possible." †

In lieu of the proposed amendment, Madison moved a substitute, declaring, "that, instead of the terms contained

* A loan was at this time announced to have been effected in Holland of three millions of florins at 4 per cent.

† This speech is reported with great accuracy, in full, in the National Gazette of the 19th of April, 1792.

in the act, the subscribers should receive certificates for the joint amount of the principal and arrears of interest subscribed, bearing an interest equivalent to the terms of the existing loan."

The effect of either of these propositions would have been to subvert the whole system of public credit. The first proposed a direct attack upon it; the last, however just the principle, if applied in the original provision for the debt, was wholly inadmissible, and without adequate motive. The funding system, by increasing the value, had given to the public creditor a full equivalent. This substitute would have given more than an equivalent. It would, also, have given the creditors, who had evinced the least confidence in the Government, a preference over those who had been willing to accommodate their claims to its necessities; and, to secure this preference, would increase the public burthens, and by increasing the total amount of the debt, would diminish the value of the stock held by the subscribers to the first loan. After a warm debate, which is not fully reported, Madison withdrew his motion.

An amendment was then offered by Giles to exclude the qualified irredeemability from any loan hereafter to be authorized; which, having been earnestly discussed, was negatived. The Resolution for the payment of the interest on the *unsubscribed part* of the domestic debt to the first of January, seventeen hundred and ninety-three, was agreed to without debate; but, the proposed provision of interest for those creditors who were entitled to interest on the *nominal sum* of their debt was rejected.

The proposition extending the time of subscribing to the existing loan for the assumed debt, the unsubscribed part, was adopted; and the debt due to the foreign officers was authorized to be paid.

The principal discussion arose on the resolution providing for the Assumption of the State debts, not previously assumed. It was moved, that this assumption should extend to the State debts, both paid and unpaid; to which motion, an amendment was suggested by Madison, of the addition of the words, "since the peace"—pursuing the object for which he had contended, when the question of the assumption was first discussed. In support of this motion, it was said, that the States acted as agents for the United States; and, that the securities in the treasuries of the particular States, which had been paid, were, *bona fide*, as much a debt against the Union as the securities in the hands of individuals. To this, it was replied, that, at first blush, the attempt must appear impracticable, for it would be a revival of the whole debts of the States, incurred during the whole war; and was devising a plan to tax the people in the most grievous manner, merely for the sake of taxing them. It was defeated. An earnest debate then followed on the general question, as to a further assumption; the more conspicuous opponents of which were, Madison, Findley, Giles, Page, Baldwin, and Mercer.

Madison denied that the State creditors, "ever entertained an idea that they should look to the United States for payment of those debts." He also denied, that in the former assumption they were regarded in the same light as the creditors of the Union. He declared, "that the proposition was unjust, as it would place States, which had made no exertions to pay their debts, in a more eligible situation than those which had made the greatest exertions. One of these was Virginia, whose opposition to this measure was before the House; and whose contribution to the Revenue showed, that she paid an overproportion of the interest on the debts of some of the

States. That the assumption had not been generally approved or acquiesced in, was shown by the resolutions of that State; to which he regretted that no more attention had been paid."

Gerry, in reply, stated a variety of instances to show, that the debts of the individual States were always considered as founded ultimately on the faith of the Union; that the creditors had taken the paper of the States on that idea; that the States were considered as agents for the United States; and, on this principle, that contracts for supplies and services on Continental account had been made, without which the war must have ceased, and the subjugation of the United States have followed. He also remarked, on the partiality and evident injustice of leaving the possessors of the remainder of the State debts wholly unprovided for.

Giles took broader ground than Madison. He avowed an entire hostility to the Assumption, as a measure originating wholly with the Secretary of the Treasury; and sustained by *no other reasons* than those he had advanced in his reports. He also declared, that the effect of the Funding system was to draw money from the remote parts of the Union to the seat of Government; a system, which had this effect, ought not to be strengthened, by adding to it the means of still further draining the distant States. He thought the present debt of the United States fully equal to the resources of the Government; if increased, it would produce an increase of the public burthens. To add to the debt, would be to add to a mass of corruption, for he considered it in no other light.

The measure was chiefly sustained by Hartley, Smith, Barnewell and Gerry, who dwelt upon the force of the reasoning in the Secretary's Reports; and denied, that it had been answered. The debt was due, and must be

provided for. The effect of a further assumption would be to reduce the interest from seven to about four and an half per cent. The principle of assumption having been established—it remained for the Government to complete it; otherwise, a manifest injustice would be done by creating a distinction between creditors exactly similarly circumstanced in the first place, and whose demands are precisely the same with those provided for. As to the want of resources, no such deficiency was admitted by the opposition when the bill was before the House for the increase of the revenue to protect the frontiers; or, when it was urged that the National debt ought to be paid, not funded. The observation, that if this part of the debt was not assumed, foreigners would not buy it, implied, that it never was to be paid. Was such the intention?

As to the alleged discontent, the House was invited to compare the condition of the country at the period of the adoption of the Constitution, with the present moment.

Then, the United States were without credit, either public or private. Our justice, as well as our government, was distrusted. Agriculture languished. The farmer was unwilling to raise crops, for which he, in vain, sought a market. Confidence, the great spur to industry, did not exist; its arm was paralyzed. Our harbors were a desert, for commerce had decayed, its vital spirit being lost. What is our present state? The National credit, as high as any in the world. Individual confidence restored. Justice again holding her even balance. Agriculture prosperous, and improving to an unexampled degree. In every part, we hear the mallet of the ship-builder, and the voice of the mariner. Commerce is expanding, and pouring into our Treasury her grateful returns for the credit which has lent her wings.

The propositions were nevertheless rejected by a ma-

jority of three votes. An effort was made in the House to reinstate the clause providing for the additional assumption; but the previous question being called, prevailed.*

The bill was then completed, omitting a further provision for the State Debts. One alteration was made in the sections establishing the Sinking Fund. It was an amendment by Madison, of that authorizing purchases of the debt by Commissioners of the Sinking fund, at the *market price*. He proposed, that the word "*lowest*" should be prefixed, which invidious provision was inserted.

At an early stage † of the discussion of the Apportionment bill, a message from the President announced, in terms of "great concern," despatches from General St. Clair, communicating the particulars of his defeat by the Indians, on the fourth of November, near the Miami village, with the severe loss of several distinguished officers, and a large number of privates—a battle in which the savages evinced the greatest courage and adroitness; and where the gallantry of the regular troops served to mark more strongly, by contrast, the misconduct of undisciplined militia.

The dangers with which this unexpected misfortune menaced the frontiers, and the loss of many officers whose previous service had acquired for them the greatest confidence, inspired a deep sympathy. By the opposition, it was eagerly seized upon, as furnishing an ample field for loud and angry crimination.

* This charge is made by Jefferson against Washington, February 16, 1792: "There is reason to believe that the rejection of the late additional Assumption, by the Senate, was effected by the President, through LEAR operating on Langdon; Beckley knows this." It is no less than a charge of using indirect means to defeat an Act of Congress, intended to complete a system Washington had expressly approved. Lear was Washington's private Secretary.

† December 12, 1791.

This war had been commenced, reluctantly, at the earnest entreaties and angry remonstrances of Kentucky, sustained by the Virginians. Yet, with that obliquity of mind which is often shown when the object is to excite prejudice, not to ascertain truth, men who had cordially concurred in the measures taken to prosecute the Indian War, now saw in them, only a rash exposure of the lives of their fellow-citizens, in a wanton warfare upon beings, who should have been treated as objects of commiseration.

This impeachment of the morality of the administration, on a point as to which, of all others, it became a civilized people to be most sensitive, induced a procedure on the part of the President, evincing a more than usual sensibility to public opinion.

He directed * the Secretary of War to publish a report recently made to him, in which the repeated and unceasing efforts, both of the former and present Government, to preserve peace with this unfortunate race, were fully shown; and the causes of the existing hostilities explained from official and authentic documents. It is a narrative, of which the principal features are, treaties made and violated, renewed and again broken by the savages; constant depredations and murders of individuals, whose blood was mingled with their harvests; in which the tomahawk and the scalping-knife were the mildest instruments; and where, often, the gratification of sudden passion was sacrificed to the more enduring pleasure of inflicting torture, by fire and other execrable means. From this Report, it appeared that more than fifteen hundred American citizens had fallen victims to this foul and savage spirit; and, in which, a detachment of American troops, while engaged in making overtures of peace, were perfidiously attacked and destroyed.

* January 16, 1792.

These overtures of peace failing, and the depredations still continuing, an attempt to coerce them became indispensable. An expedition under General Harmar, in October, seventeen hundred and ninety, owing to the misconduct of the militia, was unsuccessful.

Still anxious for peace, conciliatory messages were sent to the Miamis, without effect. A Treaty was then opened by an agent * of the United States; and assurances were given of their pacific policy.

"Thus, the Government, uninfluenced by resentment or by any false principles, which might arise from a consciousness of superiority, had adopted every proper expedient to terminate the Indian hostilities, without recourse to the last extremity. Having been compelled to resort to arms, it still kept steadily in view the re-establishment of peace as its primary and sole object." † But the war was a series of predatory incursions by inveterate banditti, and conciliation was attempted in vain.

The defenceless state of the Western frontier had induced Congress to authorize the addition of a regiment to the regular establishment; the raising of two thousand men, called Levies; and the employment of any number of mounted militia, to be commanded by a major-general. St. Clair, the Governor of the Northern territory, was appointed to this command, to which his knowledge of, and influence with the Indians, recommended him. Having, in vain, sought to treat with them, he marched early in the autumn to the region where this defeat occurred.

This well-timed document silenced for the moment any attempt to call in question the measures taken preparatory to this war; and which were taken under the immediate supervision of the President.

* Colonel Pickering, in June, 1791.

† Report of the Secretary of War.

A short time after the full extent of this defeat was ascertained, a Report was submitted to the House of Representatives, by the Secretary of War, recommending an increase of the Army. In conformity with it, a bill was introduced for raising *three* additional regiments of infantry, and a squadron of cavalry, for the term of three years, if not sooner discharged, leaving the raising or discharging them, within that period, discretionary with the President. The amount of force asked for would appear to have been the least, the administration was justified in requiring; but the demand was, nevertheless, resisted with great vehemence. The justice and the necessity of the war were both denied. Its continuance was imputed to a desire to extend the National frontier, already too weak and remote; and it was declared, as long as Britain was suffered to retain the posts, success against the Indians was not to be hoped. The employment of regular troops, was pronounced most unwise, in a warfare necessarily desultory; and, to which a frontier militia were better adapted; but, if such a force were employed, it was alleged, that nothing had occurred to show the necessity of an augmentation of the army. In the support of the existing establishment, great expense had been incurred; and its increase would only furnish a pretext for heavier burthens * on the people, to continue an

* "The wishes of the people and the policy of the Government, appear to me to coincide in respect to hastening the extinction, or, at least, the progressive diminution of the Public Debt. This important desideratum would have been sufficiently within reach, if this most unwelcome Indian War had not absorbed the means. While the Government is reproached with it, as a crime, every friend of it will see that it is a misfortune which prudence cannot now avoid, and surely, even folly could not have chosen it as a good thing *per se*. No measures will be neglected to finish it speedily, for the President, I am persuaded, is anxious to do so. But, though the diminution of the Debt

odious tax, or swell the charges upon commerce. The war had already continued too long, and for reasons unknown to the public, but which could only be ascertained by penetrating into the secrets of the Cabinet, whose object, it was feared, was to have a regular standing force, equal to that of the British on this continent. What funds are to be provided to meet the expense of supporting this increased force? The Excise is unpopular, and unproductive. The import duties have been raised as high as is consistent with prudence. To increase them, would only open a door for smuggling, and thus diminish their productiveness.

These objections to the origin of the war were met by a simple reference to the facts detailed by the Secretary of War. Its continuance was not of choice, but of necessity. It was the only road to peace. If continued, it required vigor; and a vigorous prosecution of it could only be effected by the number and the kind of force the Government had asked. The expense, though to be regretted, was a consideration which vanished before the obligation to protect the frontier; an obligation enforced by every consideration of duty, and of humanity. Thus augmented, the whole military establishment would amount to five thousand one hundred and sixty-eight men!

The objection to this augmentation appears the more surprising, when it is known, that the inadequacy of the force authorized to be raised during the previous season,

may be retarded by this means, it will not be prevented. I am in no doubt of the Secretary's earnest desire to advance this work as fast as possible.

"Causes which I have in a former letter explained to you, have generated a regular, well-disciplined opposition party, whose leaders cry liberty; but mean, as all party leaders do, power; who will write, and talk, and caress weak and vain men, till they displace their rivals. The poor VICE will be baited before the election. All the arts of intrigue will be practised—but more of this when we meet."—Ames, i., 118.

had been the ground of much censure, by the party who now opposed this small increase.

While this debate was proceeding, a motion was made to go into *secret* session, for the purpose of reading an Indian speech embraced in the confidential communications of the President, but which had been already published. The advocates of the bill opposed this motion, claiming, as their opponents had publicly discussed the bill, that they were entitled, in justice, to a public defence of the measure. The motion was insisted upon and prevailed.

The bill was then discussed in secret session, and after two divisions, passed.* So inadequate were its provisions, that a special message was sent to the House by the President, urging a change, as necessary to a more efficient organization, and as more conducive to economy.

A formal resolution, introduced by an adversary of the administration, was subsequently adopted, that it should be a standing order, that whenever confidential communications are received from the President, the House be cleared, and so continue during all debates and proceedings had thereon; and that the same course be adopted, when a similar communication should be made by the Speaker, or a member.

While the army bill was under discussion, it became an interesting inquiry with the friends of the public credit, how far a provision for this increased expenditure might interfere with the existing fiscal arrangements.

* This act, under the title of an Act for the Protection of the Frontiers, authorized the completion of the battalion of artillery, and of the two regiments of infantry, then in service; and three additional regiments to be raised for three years, but to be discharged as soon as there was peace with the Indians, giving the option to the President, either to raise or to discharge the whole, or any part of them. To one of the regiments a squadron of light dragoons was attached.

With this view, a resolution was offered by Fitzsimmons, that the President be requested to direct the Secretary of the Treasury to lay before the House the necessary information to judge whether any additional revenue would be necessary.

The extensive reputation and influence Hamilton had acquired over public opinion, by the several Reports he had submitted to Congress, excited, more and more, the jealousy of his opponents. To answer his arguments, had been unsuccessfully attempted. The greater the opposition to him, the more humiliating had been the issue. The policy recommended by him had commanded a majority in Congress; a result the more galling, when compared with the fate of the Reports of the Secretary of State.*

It was resolved to put an end, by a decisive blow, to his political career. With this view, Jefferson commenced his intrigues with members of Congress, who had previously been firm supporters of the financial system.† But the attempt was unsuccessful.

* "Hamilton's influence, supported by the overwhelming popularity of the President's name, was *completely paramount* in Congress."—Randall's Jefferson, ii. 69.

† Jefferson's Writings, iv. 458:—"On the 2d of January, 1792, Messrs. FITZSIMMONS and GERRY (among others) dined with me. These two staid, with a Mr. Larned of Connecticut, after the company was gone. *We got* on the subject of references by the Legislature to the heads of departments, considering their *mischief in every direction.* Gerry and Fitzsimmons clearly opposed to them. Two days afterwards (January the 4th) Mr. Bowne from Rhode Island presented a memorial from his State, complaining of inequality in the assumption, and moved to refer it to the Secretary of the Treasury.

"January the 19th—Fitzsimmons moved that the *President of the United States* be requested to direct the Secretary of the Treasury to lay before the House information to enable the Legislature to judge of the additional revenue necessary on the increase of the military establishment. The House, on debate, struck out the words 'President of the United States.'

"March 7th. The subject resumed. An animated debate took place on the tendency of references to the heads of departments; and it seemed, that a

Four days after the passage of this resolution, Hamilton submitted a Report, showing the total annual expenditure of the government, and the probable receipts for the year, leaving the small surplus of twelve thousand dollars.

A similar attempt to drive him from office, was subsequently made.* A resolution, which had been laid upon the table, was called up, directing the Secretary of the Treasury "to report the ways and means by which, in his opinion, the additional sums necessary for the public service ought to be raised."

This resolution gave rise to a warm debate, which continued to a late hour, when the House adjourned, without taking the question. It was resumed, and decided the following day. In the course of this debate, the influence that officer had acquired over the deliberations of Congress, was deprecated, as threatening the independence of the National counsels, and the subversion of the Constitution. Against this influence, the members of the House were repeatedly called to take a stand, as friends of a Free Government. This mode of proceeding was pronounced, a transfer of Legislative authority to a temporary minister, not chosen by the people nor responsible to

great majority would be against it. The House adjourned. Treasury greatly alarmed, and much industry supposed to be used before next morning; when it was brought on again, and debated through the day; and, on the question, the Treasury carried it by thirty-one to twenty-seven; but deeply wounded, since it was seen that all Pennsylvania, except Jacobs, voted against the reference; that Tucker of South Carolina voted for it, and Sumpter absented himself, debauched for the moment, only, because of the connection of the question with a further assumption, which South Carolina favored; but showing, that they were never to be counted on among Treasury votes. Some others absented themselves. Gerry changed sides. On the whole, it showed that Treasury influence was tottering."

* March 7, 1792.

them; a mode of originating money bills, highly improper in itself, and having a dangerous tendency—a right not possessed by the President, and denied by the Constitution, to the Senate. These objections were answered by Murray and Ames. The conduct of the opposition was contrasted with their course in the recent discussion on the bill for the protection of the frontiers. Then, they insisted upon an almost implicit adoption of the Report of the Secretary of War, though, they subsequently opposed the act founded upon it; now, they oppose the most obvious mode of devising ways and means to defray an enormous expense, incurred by that bill. In defence of this reference, which hitherto had been the course of the House, they stated, that they could neither see danger in the precedent, nor surrender of Constitutional right in the consequences; and adduced many obvious reasons in its favor. That it was the best mode of obtaining information, which could only be possessed by the officer at the head of the finances—the greater probability of simplicity, consistency and stability in a system of Revenue carefully digested by a public officer, controlled by the highest responsibility for the correctness of the principles adopted, and their success in execution. The opinions so obtained were not obligatory further, than as they appeared to be founded in wisdom; thus uniting the efficiency and regularity, which are the only good parts of bad governments, with the control and right of rejection, which belong to the most free. If this mode was not adopted, instead of an official Report made in the face of the world, a private influence, by information, secretly, partially and irresponsibly communicated, would be established. As to the idea, that it gave the power of originating money bills; no bill was originated until the House had agreed to some principles or resolutions; or a committee had reported by order;

and, it might as well be said, that the author of a work on finance, from whose opinions a scheme of Revenue was formed, taxed the people, as that the Report of a Minister, originated a bill.

The arguments advanced on this occasion were similar to those used on the original organization of the Treasury department. It will be recollected, that Madison was a conspicuous advocate of the act creating that department; and especially of the clause, which made it the duty of the Secretary, to prepare plans for the improvement of the Revenue.

He *then* declared, that "Inconsistent, unproductive, and expensive schemes will produce greater injury to our constituents, than is to be apprehended from any undue influence, which the well-digested plans of a well-informed officer, can have. Admitting that, on this ground, there was a small probability of a small inconvenience, he thought it no more an argument against the clause, than the possibility that wind and rain might find their way through the crevices, would be an argument against windows to a house." He *now* combated the propriety of such references, on principle!

Though a train had been laid to secure a majority on this question, which, if the intrigue had succeeded, would have induced Hamilton's resignation, it unexpectedly failed by a majority of four votes.

The reference to the Secretary of the Treasury was made, on the eighth of March, and his Report was communicated to the House on the seventeenth of that month. Three expedients were stated by him to be at the option of the Government, to provide the additional sum required:*

* The amount necessary to carry into effect the "Act for making further and more effectual provision for the frontiers" beyond the provision recently made, was estimated at $675,950 08; but the larger productiveness of the

To dispose of the stock of the Bank of the United States belonging to the Nation; to borrow money upon an establishment of funds, either commensurate with the interest to be paid, or yielding a surplus to discharge the principal by instalments, within a short term; or, to raise the amount by taxes.

The first expedient, which would yield a clear gain, much more than adequate to the sum required, Hamilton dissuaded, both, because, it was deemed the policy of the United States to retain their interest in the Bank stock—because of the augmentation of the value of that interest, if retained; and from the more important consideration, that its most useful application, when sold, would be to the extinguishment of the public debt. The second expedient was thought preferable, inasmuch as the increased value of the stock created would go far to discharge the amount borrowed. If adopted, he advised, that it be accompanied, "with a provision sufficient, not only to pay the interest, but to discharge the principal, within a short period;" thus "mitigating the inconvenience of making an addition to the public debt." But a resort to taxes, he regarded as more eligible than either of these resources, from the considerations, that "nothing can more interest the National credit and prosperity, than a constant and systematic attention to husband all the means previously possessed, for extinguishing the present debt; and to avoid, as much as possible, the incurring any new debt. Necessity alone, therefore, can justify the application of any of the public property, other than the annual revenues, to the current service, or to the temporary and casual exigencies of the country; or the contracting of an additional

Revenue for the last quarter of the preceding year authorized a reliance, that there would be a surplus applicable to that purpose, leaving a provision necessary for the residue—$525,950 08.

debt, by loans to provide for those exigencies. Great emergencies, indeed, might exist, in which loans would be indispensable. But the occasions which will justify them, must be, truly, of that description. The present is not of such a nature. The sum to be provided is not of magnitude enough to furnish the plea of necessity. Taxes are never welcome to a community; they seldom fail to excite uneasy sensations, more or less extensive. Hence, a too strong propensity in the governments of nations, to anticipate and mortgage the resources of posterity, rather than encounter the inconveniences of a present increase of taxes. But this policy, when not dictated by very peculiar circumstances, is of the worst kind. Its obvious tendency is, by enhancing the permanent burthens of the people, to produce lasting distress, and its natural issue is, in a National bankruptcy."

"It will be happy," Hamilton added, "if the Councils of this country, sanctioned by the voice of an enlightened community, shall be able to pursue a different course."

Having stated these cardinal maxims of policy, he observed, that the most eligible resort will be to some additional duties on imported articles—a conclusion adopted with reluctance, "from the reflection, that frequent and unexpected alterations in the rates of duties on the objects of trade, by inducing uncertainty in mercantile speculations and calculations, are really injurious to commerce, and hurtful to the interests of those who carry it on. The stability of the duties to be paid by the merchants being of more consequence to them, than their quantum, if within reasonable bounds." For these reasons, he would have wished to avoid so early a resort to new demands, on that class of citizens; especially, until a general tariff could be maturely digested, on principles which might, with propriety, render it essentially stationary.

But, there were other considerations adverted to, "of a consoling tendency;" the cheapness and more advantageous terms, resulting "from the improved credit of the country," upon which supplies could be obtained from abroad; and the effect of this increase of duties, in tending "to second and aid that spirit of manufacturing, which prevailed to a greater degree than it had done at any antecedent period; and which will serve to promote, essentially, the industry, the wealth, the strength, the independence, and the substantial prosperity of the country."

"The returns of the last year," he added, "evinced a much increased importation, greater far than can be referred to a naturally increasing demand from the progress of population; and announced a probability of a more than proportional increase of consumption, there being no appearance of an abundance of goods in the market. If an extension of duties should restrain an excessive consumption, it would be a salutary means of preserving the community from future embarrassment, public and private. But, if this should not be the case, it was at least prudent in the Government, to extract from it the resources necessary for current exigencies, rather than to postpone the burthen to a period when that very circumstance might cause it to be more grievously felt."

To accomplish these objects, he proposed to repeal the existing duties on the articles enumerated in the report; and to impose others, to be permanently established. He also proposed an addition of two and a half per cent. ad valorem, to the duty on all goods previously rated at five per cent. ad valorem. While he stated, that this would "constitute an important, though not excessive augmentation," he remarked, "nevertheless it is proposed that it *shall be only temporary*, and there is a reasonable

ground of expectation, that the cause* for having recourse to it will not be of *very long* continuance."

When this report was considered, a motion was made in committee, but negatived, to adopt it as it stood. Remonstrances having been in the mean time received from the dealers in certain articles, as to some of the increased duties, the whole subject was considered; and with the addition of a few articles, and a modification of the duties upon others, the report was adopted.

The revenue from these duties was appropriated, in the first place, to the payment of the interest on the public debt; then to such other grants, as had been previously made or should be made during the session; and, then, to the purposes of the Act for the protection of the frontiers. To meet the expenses to be incurred by that Act, a loan was authorized, payable at the pleasure of the United States.

When the bill came before the House, several amendments were suggested; among these, was a motion of Parker, to strike out the duty on playing cards, as being a stamp duty of a pernicious nature; and never to be introduced but in case of dire necessity. The clause was retained, only four voices being given in the negative. The opposition Gazettes then raised a clamor; and it was expunged by a majority of two votes, but was subsequently restored.

A proposal to exempt cotton from the duty with which it had been charged, in order to encourage the domestic growth, was defeated. A similar proposal as to tradesmen's tools, machines for manufactures, and implements of husbandry, and the proposition made by Hamilton, in aid of education, to exempt books, specially imported for the use of colleges and seminaries of learning, were also rejected.

* The duration of the Indian War.

Brass and iron wire were excepted from the duty on manufactured iron and brass; the duty on salt was raised, by establishing a reduced standard weight per bushel, for the purpose of equalizing it. The credit was extended, and a proportional drawback was allowed upon fish; and increased "allowances" or bounties were granted to fulfil the purposes of the Act recently passed for the encouragement of the Fisheries.*

Without a direct action upon the Report on Manufactures, several of its leading objects were thus, by this bill, attained.† A warm debate arose upon a proposition to limit the duration of these duties. It was contended, that enough was already drawn from the impost. The House was called upon to augment the tonnage duty on the vessels of nations, not in alliance

* Hamilton writes, April 20th, 1792—"The business yet to be transacted will not admit of their further attention to my Report, than the giving such modifications to the ways and means recently required, as will encourage this interesting branch of the National industry. The bill has nearly made its progress through the House of Representatives, in a form calculated as well to produce that effect, as the necessary supplies."

† A specific duty on all wines in common consumption and most susceptible of a precise designation, and a general ad valorem of forty per cent. on others, proportioned to the specific duties, reducing those on low priced wines, which before amounted to a prohibition; an increased specific duty per quantity on ardent spirits, thus to induce in their stead the use of wine, and to raise the then price more nearly to a level with that in other markets; discrimination in favor of those from grain to favor the use of native grain, and to conform the difference in the duty, to the difference in the cost of the grain and spirits usually imported, and that of West India rum. Specific duties on malt liquors, nails, steel, and certain enumerated articles, and ad valorem duties of ten per cent. on some, and fifteen on others, to promote their manufacture, and aid the revenue. Among these were cables, twine, cordage, and packthread. These duties were to be permanent. A temporary addition of two and a half per cent. on those previously rated at five per cent. ad valorem, was proposed to be continued, only, until the end of the Indian War, and the discharge of its expenses. It, consequently, was limited to two years. A duty was also laid on foreign coals.

with us.* This would raise the *requisite amount; would increase the navigation;* and would be a just retaliation upon Great Britain. Instead of this, under a pretence of protecting the fisheries, a new system had been introduced wholly foreign to the subject—the placing the occupations and productive labor of the citizen under the direction of Government; and rendering the subsistence of the artisan and the farmer, dependent upon its views. In the provision for the debt, a perpetual tax was imposed, and a Sinking fund superadded; proving, that, there was no serious intention to pay the debt; and that it was a mere engine to influence the motions of Government. All this had been effected, not by the exercise of the constitutional power of the House, to originate money bills; but, by the influence of an Executive officer over a majority, swayed by his opinions.

It was answered: "Small as it was, that some imported articles were charged with a sufficient duty; others could bear more. Those selected would stimulate industry and increase wealth. In this Impost law, all interests had been provided for. The grower of hemp and cotton —the manufacturer and the fisherman. As to the latter, the Constitution had provided that all exports should be free, and this was now effected.†

As to the perpetuity of these duties, they were only pledged as long as the public service required; and would then be repealed. The objection to the Sinking Fund, was

* This proposition as to the Tonnage duty was, it is seen, in reference to Jefferson's Report on the fisheries.

† In the Impost Act introduced by Madison, a duty was laid on pickled fish imported. Nearly the whole of that brought from Nova Scotia to Massachusetts was re-exported, chiefly to foreign countries—Hamilton recommended the abolition of this duty, as no injurious competition in the branch of the fisheries, to which this duty was applicable, was to be apprehended; and the import into Massachusetts contributed to the augmentation of her exports.

an objection to a provision for discharging the debt, by those who clamored against its magnitude. So close was the division, that the provision to limit the duration of this Act was defeated, only by the casting vote of the Speaker.

After the rejection of an amendment, by which the duties to be imposed should be received in the notes of all the existing local banks, equally with those of the Bank of the United States, the bill passed by a large majority.

CHAPTER LXX.

It has been stated, that at the close of the previous session of Congress, each House adopted a resolution, founded on Hamilton's Report, for the establishment of a Mint. The Senate took this subject into consideration at an early period of their session, and a bill was reported by Robert Morris, "Establishing a Mint, and regulating the Coins of the United States."

This bill provided for a Director and Assayer, a Chief Coiner, and Engraver, and a Treasurer, all of whom, with the exception of the Director, were to give bonds for the faithful performance of their duties, which were so prescribed as to afford mutual checks, under the superintendence of the Director, who was required to render the accounts of the establishment quarterly to the Treasury department, and annually to Congress.

The National coinage was to consist of three gold pieces: eagles, halves, and quarters. The silver coins were divided by the bill into dollars, halves, and quarters, dimes and half dimes; and the smaller circulation was provided for by cents and half cents of copper.

Hamilton had recommended, that the devices upon these coins should be made "the vehicles of useful impres-

sions, emblematical, without losing sight of simplicity." The bill provided, that one side of them should bear an impression of the head of the President of the United States, for the time being, with the initial of his first name, and his surname at length—the succession of the Presidency numerically, and the year of the coinage; upon the reverse, an eagle, with the inscription, "The United States of America."

The proportional value between the gold and silver coins, the quantity of alloy, and the value of the Unit in fine silver, were established, as he had proposed. The coins so issued, were declared to be a lawful tender.

The departure from the decimal subdivision in the respective pieces of gold and silver induced an enactment, that the money of account of the United States should be expressed in dollars, tenths, hundredths and thousandths.

This bill passed the House as received from the Senate, with one exception, the clause providing for the device. This was objected to, as a continuance of the practice of monarchies, to hand down, in the ignorant ages in which it was introduced, the heads of their Kings upon their coins, to preserve their chronology, or to show to whom they belonged. The President's head would not designate this government, which consisted of three parts. It had a near affinity to titles, the darling child of the Senate. It was declared to be the peculiar duty of that House, to warn the people of the danger of imitating this almost idolatrous practice of monarchies, of holding out to ambitious men, these incentives to cabals and corruptions, by animating them with the hopes of descending to the latest ages, on the medals of their country. As to the proffered honor to the President, this could not contribute to its increase.

It was replied, that there was nothing derogatory to

the Republic, to stamp their money with the likeness of the Chief Magistrate; and surprise was expressed, that such an objection should proceed from those, who so much admired the new Constitution of France, by which the head of the King was to be impressed upon the coin. Some impression was necessary to guard the currency. Was it better to leave to an Artist the selection of an emblem to please his fancy?* What was the liberty that possessed the minds of the opponents of the Administration? It was little else than the liberty of savages. The true idea of liberty was that which arose from law or justice, which secured every man in his proper and social rights. The clause was amended, by substituting as a device, an emblematical figure of "Liberty" with an inscription of that word, and of the year of the coinage. The Senate rejected the amendment. The House insisted upon it. The Senate yielded, and this important bill passed. Thus, to serve a mere party purpose, the great object of numismatics was disregarded. A law was subsequently enacted, providing for a copper coinage.

In an estimate of the receipts and expenditures for the current fiscal year, previously mentioned, one cause of the Revenue on home-made spirits having fallen short of his original estimate, is stated by Hamilton, to have been, "the obstacles which have retarded the complete execution of the law."

The opposition to what was familiarly called the Excise law, had prompted a call† by Congress upon the head of the Treasury department for information, as to the difficulties which had occurred in the execution of that

* The impress adopted, at the suggestion of Jefferson, was a Female head, surmounted by a Liberty cap, surrounded by thirteen stars. The head has since undergone many mutations, as caprice has dictated.

† 1791, 1st and 2d of November.

law; and for his opinion, whether any and what alterations could be made in favor of domestic distillation, "consistently with its main design, and with the maintenance of the public faith."

This call gave rise to a very carefully digested and elaborate Report, bearing date, the sixth of March, seventeen hundred and ninety-two. As this is a subject on which the public mind long continued to be much abused, and which had an important influence, it is necessary to give a full view of it.

One of the objections to the Act raising an Internal Revenue, was stated to have reference to its "supposed tendency to contravene the principles of liberty." In respect to this objection, the Report remarked, "that there can surely be nothing in the nature of an *internal duty* on a consumable commodity, more incompatible with liberty, than in that of an external duty on a like commodity. A doctrine that asserts, that all internal duties are inconsistent with the genius of a free Government, is too violent and too little reconcilable with the necessities of society, to be true. It would tend to deprive the Government of what, in most countries, is a principal source of revenue; and, by narrowing the distribution of taxes, would serve to oppress particular kinds of industry. It would throw, in the first instance, an undue proportion on the merchant and landholder." "The chief circumstances which, in certain Excise laws, have given occasion to the charge of their being unfriendly to liberty, are not to be found in this Act. There is no summary and discretionary jurisdiction in the Excise officers, contrary to the course of the common law, and in abridgment of the right of trial by jury.* There is no *general* power to search and in-

* By the English Excise law, the trial by jury was taken away. By the American, it is expressly reserved. By the English law, right of search ex-

spect *indiscriminately*, all the houses and buildings of persons engaged in distilling. An officer, under this Act, can inspect or search *no* house or building, or even *apartment*, which has not been *previously entered* and *marked* by the possessor, as a place used for distilling, or keeping spirits, and then, only, distilleries from foreign materials; and in cities, towns, and villages, from domestic materials —that is, in places where the business is so large, as effectually to separate the *distillery* from the *dwelling*."

"A distillery seldom forms part of the dwelling; and where it does, the distiller, by marking the apartment, can limit the power of visiting and search. These marks are objected to, but it is only doing that, which is frequently done to invite customers.

"The objection of its injury to morals, related to its requiring oaths. This was matter of regret; but oaths were a common appendage to revenue laws, and constantly occur in jury trials, to which the citizens are so much and so justly attached. If the oaths of the parties, and the inspection of officers are to be abandoned, what security can there be for a revenue from articles of consumption?

"The penalties of the Act are, in their nature, the same with those which are common in revenue laws; and comparatively moderate. There is one provision in the Act, not to be found in any law enacted in this country, prior to the present Constitution of the United States, by which, forfeitures and penalties incurred, without any intention of fraud or wilful negligence, may be mitigated or remitted.

"There are other provisions of the Act, which mark

isted at any moment, day or night. By the American, no search, but in the daytime, by virtue of an oath before a magistrate, and then in company with a civil officer.

the scrupulous attention of the Government to protect the parties concerned from inconvenience and injury; and which conspire to vindicate the law from imputations of severity or oppression.

"It is affirmed, that duties on home manufactures are impolitic, because they tend to discourage them; and especially on those from the produce of the country, as they injure agriculture. It is impolitic to tax a manufacture in its infancy, because, the tax would be unproductive; and it would impede and endanger its success. But, when arrived at maturity, it is as fit an article of taxation as any other. The consumer of a domestic commodity, should contribute something to the revenue, when the consumer of a foreign commodity contributes to it largely. To the manufacturer, the duty is no injury, if an equal duty be laid on the foreign article; if a greater, as in the present instance, the difference is a bounty. The objection would confine all duties to imported articles; and would deprive the Government of a resource indispensable to the public safety and welfare; and contrary to the plain intention of the Constitution, which gives express power to employ those resources when necessary—a power found in all governments, and essential to their efficiency, and even to their existence.

"Internal duties, form, in every country, the principal sources of revenue. Those on imports, can only be carried to a certain extent, without defeating their object, by operating as prohibitions, or inducing illicit introduction. They are, also, in a degree, temporary; diminishing with the increase of the domestic supply. To this source of revenue, it must then resort, or the community must be unprotected, and the social compact be dissolved.

"For the same reasons, that a duty ought not to be laid

on an article manufactured out of the produce of the country, it ought not to be laid on the produce itself, nor upon the land which is the instrument of the produce—thus there would be neither taxes on land, nor on its produce, nor on articles manufactured out of its produce; and if a nation should be in a condition to supply itself with its own manufactures, there would be no revenue."

The Report next proceeded to answer—and in a manner that must be deemed conclusive—the objections raised to the details of the Law; but, at the same time, suggested modifications to meet these objections. It also took a view of the local causes which, it was alleged, rendered the system particularly unequal in its operation on the four most western counties of Pennsylvania.*

"If the inequality † arose from their greater consumption, this could be removed by the diminution of that consumption; nor was the objection, that they were obliged to distil their grain, in order to transportation to distant markets, of more force. The duty on all sent to those markets is paid by the purchaser; and, as greater manufacturers of the article, they derived a greater benefit from the high duty on spirits distilled from foreign materials, as favoring the consumption of those from domestic produce." The alleged scarcity of money to pay the taxes, was shown to be more than counterbalanced by the expenditures of the Government in the discontented region.

* In reply to a representation signed by "Edward Cook and Albert Gallatin."

† The extent of the inequality may be judged of from the fact, that the duty on the quantity consumed by each family of six persons would be less than a dollar and a half.

The Report closed with suggestions of several alterations in the existing law, for the purposes of aiding the collection, and removing dissatisfaction.

A bill prepared by the Secretary of the Treasury repealing the existing duties and laying others in their stead, was reported by a Committee. The duties on spirits distilled from foreign materials were agreed to, as reported. After an unsuccessful attempt to have the duties on those distilled from articles of domestic growth, made the subject of a separate act, with a view to defeat it, these duties were reduced, on an average, fifteen per cent. A new option was given to the distiller, instead of paying the yearly rate, to take out licenses for the monthly employment of his stills, paying, each time, ten cents per gallon of the capacity of each still.*

An effort was made to limit the duration of the act, unless sooner altered by law, to the term of two years, which failed; and the duties were expressly pledged for the same purposes, and to continue the same time with those for which they were substitutes. To supply the deficiency, anticipated from this reduction, a clause was inserted, appropriating a sufficient sum out of the revenues, to be raised under the act, recently passed, for the protection of the frontiers.

* Madison wrote, February 13, 1791: "The optional clause, permitting the owners of stills to pay either the tax on the size of the still, or on the quantity actually distilled, will pretty certainly remain a part of the bill, and *is an answer* to the *most popular objection* to it." Madison to Jefferson, February 13, 1791: "In many respects the Excise is displeasing to me, and a greater evil than a direct tax. But, the latter would not be listened to in Congress, and would perhaps be not less offensive to the ears of the people at large, particularly in the eastern part of the Union. The bill contains, as you would wish, an *optional clause*, permitting the owners of country stills to pay the tax on their capacity, or to keep an account of the liquors actually distilled, and pay according to that and no more."

The section proposed by Hamilton, which, in order to obviate the alleged scarcity of money in certain parts of the United States, authorized the duties to be paid in spirits; and a clause remitting them, in case of shipwreck from one district to another, were both expunged.

Hamilton's attention was at this time called to a subject which the interests of commerce and humanity alike demanded. Memorials in relation to the provision of "MARINE HOSPITALS" presented to Congress, being referred to him, he, at this time, made a report.* His suggestions were prefaced, with the remarks, that "the interests of humanity are concerned in it, from its tendency to protect from want and misery a very useful, and for the most part, a very needy class of the community. The interests of navigation and trade are also concerned in it, from the protection and relief, which it is calculated to afford to the same class; conducing to attract and attach seamen to the country." He recommended "a fund to be derived from a contribution by the mariners and seamen of the United States, out of their wages, to be regulated by law." This monthly contribution of ten cents, each, was to be paid to the collectors of the districts, to which the vessels belong. The benefit of it he would have extended, not only to disabled and decrepit seamen, but to the widows and children of those killed or drowned in the course of their service. He also proposed, authority be given for granting pensions in aid of those, who might be in a condition, partly to procure a subsistence from their own labor out of this fund. A MARINE HOSPITAL was to be instituted under the charge of directors.

An act to carry into effect these suggestions was not passed, until seventeen hundred and ninety-eight, when the Federalists had an ascendency in both Houses. So

* April 17, 1792.

long did the violence of the opposition defer the perform ance of this imperative duty.

It has been seen, that the organization of the militia had been repeatedly submitted to Congress.

The recent defeat of St. Clair induced a serious attention to it; and, the bill for establishing an uniform militia throughout the United States was now brought to a final decision, by a Law, which, with a few modifications, yet governs that subject.

By this act, every male citizen of the United States between the ages of eighteen and forty-five was to be enrolled; and when notified, within six months after, was to provide himself with the accoutrements and ammunition, and arms of a specified caliber. This clause was so amended, as to confine the enrolment to white males. An effort was also made to expunge the provision, which required the militia to provide themselves with arms. Much dissatisfaction was expressed with this plan, as utterly incompetent to the national defence; and leading, as the only alternative, to a standing army. The provision as to arms was retained. The proposed exemption of persons conscientiously scrupulous was negatived; and it was confined to the members of the Executive, Judicial and Legislative Departments of the Government; Revenue officers; Mariners, in actual service; certain subordinate agents, and to such persons as the States should exempt. Provisions were made for organizing the militia under the supervision of an Adjutant-General, to be appointed by each STATE subordinate to its Commander-in-Chief, whose duty it was to see that they were trained according to the discipline prescribed by Congress in the year seventeen hundred and seventy-nine. A proposition, which would have permitted the States to establish regulations for more effectual training, was rejected.

Two proposed amendments gave rise to many objections.

A letter has been previously quoted, written by Hamilton to the President, regretting "the *inability* of the National Government, in many particulars, to take those direct measures for carrying into execution its views and engagements, which exigencies require." It was sought to provide a remedy, as far as the Constitution permitted, for some of the defects of the complicated system, of two Governments acting upon one subject.

Anticipating the necessity of exerting the power, which the Constitution gave, in ambiguous terms, to Congress—"to *provide* for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions"—his friend, Boudinot, proposed an amendment to this act. This amendment provided, that the Commander-in-Chief of each State, should, on the requisition of the President, authorized thereto by express acts of Congress, order out any portion of the militia, to march to any part of the United States, for its protection and defence, for a limited term of service.

This was modified in the Senate; and another amendment added, which imposed a forfeiture of a year's pay for disobedience to such order; and provided, that during this tour of duty, the militia should be subject to the articles of war.

An earnest opposition was made to these amendments by members of both parties. Those in favor of them, urged the necessity of such a power, asking of what utility a militia was, if not to be employed to support the laws; inquiring what kind of a Government that was, which was authorized to pass laws, and had no power to carry them into execution; stating, that a similar discre-

tion for exactly the same purposes was lodged in the Executives of several of the States. Those in opposition, declared, that it was an insult to the majesty of the people, to entertain the idea, that the laws must be executed at the point of the bayonet; that the people were disposed to execute the laws, and that no such exigency ought to be anticipated.

It was suggested,* that this matter should be kept distinct from the general law; that it was a subject of delicacy, and that the objects for which this power was conferred by the Constitution, ought to be marked with precision; that no jealousy was entertained as to abuses of power by the present administration, but that this was a Government of definition, and not of trust and discretion.

A separate bill being proposed, the amendments were rejected.

A bill to provide for calling out the militia, to execute the laws of the Union, suppress insurrections, and repel invasions, met with similar objections. It was warmly opposed, on the ground of the unlimited power it conferred upon the President, of calling the citizens from their peaceful avocations; and subjecting them to martial law. Nothing could have a stronger tendency to create jealousies and dissensions among the States than thus to empower the citizens of one State to be employed in subduing those of another. The powers proposed by the Senate, were greater than those possessed by the King of England. The States possessed this power, and would exercise it. Mild and equitable laws would not be resisted; and those of a different character ought to be repealed, not enforced.

The bill was defended, as the proper mode of carrying

* By Wm. Vans Murray—a supporter of the administration.

into effect the power granted by the Constitution. Not only, had the Executive power been vested in the President, but he was sworn "to preserve, protect, and defend the Constitution;" and especially enjoined, "to take care that the laws be faithfully executed." The experience of this Nation had already shown the absolute necessity of such a power. If an insurrection should occur in Philadelphia, it might be important to call in the citizens of New Jersey, to secure the freedom of their deliberations, and if the Western counties of Pennsylvania should refuse to pay taxes, and insult the Revenue officers, the power of resorting to compulsory measures to enforce obedience to the laws, was absolutely necessary. As to the power possessed by the States, for what was the Government established, but to enable it to execute its own powers, by the instrumentality of its own laws? "Treasons and rebellions had disfigured the history of every Nation. Why should the United States be exempt? Mild laws were not always the measure of obedience. *There were acts, by which resistance could be encouraged, without being defended. Hopes of aid held out, without being expressly promised; moderation misrepresented as timidity.*" The motion to strike out the enacting clause, was rejected; and a provision was added, at the instance of Madison, delegating the power of calling the Militia of one State to act in another State, only during the recess of Congress. Another, was inserted requiring the previous attestation of a Judge to the existence of the exigency; and, a proclamation enjoining obedience to the laws was made, a necessary preliminary to a resort to force.

Thus amended, the bill became a law. It did not escape remark, that the want of energy in the Government in compelling the service of the Militia, had been a ground of much censure on the part of those, who ar-

raigned its inefficiency, as the cause of the recent defeat of St. Clair. They now objected to confer the necessary power of controlling it.

The discontents of the West were supposed to have prompted the clamor in the first instance. In the last, the objection to confer this power, may have arisen from an apprehension, that its existence would alarm into obedience disaffected partisans, whose growing discontents with the excise, tended to render the author of the system of internal Revenue, unpopular.

The policy which had induced the party, soon after known, as "the Democratic party," to endeavor to withhold from the administration the means necessary for the protection of the Frontiers, forbade any immediate Legislative inquiry into the causes of the recent disaster of St. Clair. Such inquiry, if fairly conducted, must have established, beyond all question, the urgency of the demand for an augmented force; and, would have pointed the public discontents, where they ought to have been directed—to the commander of the expedition.

St. Clair requested, that a Military inquiry should be instituted; but this request, for the want of a sufficient number of officers of proper rank, could not be granted by the President. All that could be done, was to supersede him; to appoint a competent successor; and to urge the raising of an adequate force. Wayne was appointed to the Chief command, and the army was increased.

It has appeared, that the publication of the Report of the Secretary at War, containing a narrative of the Indian warfare and of the means used to restore quiet to the frontier, had given a just direction to the public feeling But, it was not the policy of the opposition, to repose long when such an occasion offered to impugn the conduct of the Federal members of Washington's Cabinet.

After a short interval, their Gazettes raised the question, as to the justice of an Indian War. Although the War had commenced in an effort to repel a marauding party of banditti from incursions into a part of the country, which they had never occupied; to which they had no claim of title; and whose sole object was predatory; these inflammatory presses commented on the unrighteousness of a War to acquire a territory "not worth the life of one freeman." They indicated the dangers to liberty from the increase of a standing army; the inevitable increase of the debt; the injury to public credit. If War must be—the mode of conducting it was censured. It exposed solid bodies of soldiers to "an enemy in the grass." Instead of thus incurring the dangers of ambush, the Government were advised, "to offer bounties for scalps; and to prompt the avarice of men, in a War where no glory is to be obtained." But no—there should be no Wars. The great end of modern institutions was to promote "an Universal and perpetual peace."*

Speculations of this kind were circulated throughout the country; and carefully collated into the leading party press; without a comment.

The excitement was thus kept up; suggestions followed, that the disasters of the late campaign were not to be imputed to the Military department, but to a higher source. When the discontent was sufficiently swoln, late in the session—too late to pursue and complete an investigation —three months after intelligence of the disaster was received; Giles, stating, at the same time, that it was far from his intention to criminate or reflect upon the character of any person concerned, offered a resolution,† request-

* Universal Peace, by Madison in the National Gazette of Freneau.

† March 27, 1792.

ing the President, to institute an inquiry into the causes of the defeat; and of the detentions or delays alleged to have attended the supplies of the army.

This procedure was objected to, as disrespectful to the President; whose duty it was, without any suggestion of that House, to institute a Court of Inquiry, should he deem it necessary, if the object of the resolution was to investigate the military conduct of the expedition. If, to inquire into the expenditure of the public money, it was pronounced, a most extraordinary and novel procedure. The proper course was, to call on the heads of the departments implicated, for an account of their conduct.

This was the first time, in a free government, that, it was ever contemplated, to appoint a Court Martial to inquire into the expenditure of public money. The President was bound to see, that the laws were faithfully executed; but it should be shown, that he had been remiss, before such a case was made. The Constitution had pointed out the proper course of proceeding; and if such a purpose was in view, that course ought to be pursued.

Either this proceeding had not been matured by the opposition; or its effect had not been seen; for, it did not comport with their policy, to make an open breach with the Chief Magistrate. Their designs, it was believed, could better be attained, by impairing his confidence in the Federal members of his Cabinet; or, if this could not be accomplished, by fixing upon them, public discontent. After a feeble support by its mover, this resolution was rejected.

An effort was then made, to confine it to a request, to have a Military inquiry instituted. This was, also, defeated by a large vote, the friends of the administration disapproving the procedure, on principle; and, being unwilling to incur the suspicion of a desire to shield from

scrutiny, the officers of the Government, whom such an inquiry would not reach.

In lieu of these propositions, a select committee was appointed to inquire, into the causes of the failure of the expedition, with powers to call for persons, papers, and records. An instruction, proposed by Madison, that, the inquiry be confined to such circumstances connected with it, as might be requisite for the information of the House, was rejected. The object of this instruction could not be mistaken. It was, to exclude an investigation into the Military conduct of the expedition, on the ground, that that was the duty and province of the Executive; and to limit it to that of the heads of the departments; thus to induce the belief, that their acts were to become the basis of an impeachment.

The committee was composed of seven members. Of these, three were zealous opponents of the administration; a fourth had evinced, in the recent debate, a strong prejudice on this particular question. Two were its supporters. Some time after their appointment, Gerry was substituted for Sedgwick; and subsequently Findley for Gerry. Thus a decided majority were members of the opposition.

The course of this investigation led to a call upon the Secretary of the Treasury, for information, as to the causes of the delay of the supplies. He promptly reported, that "the Treasury had always been in readiness to make the requisite advances upon the request of the Secretary at War;" which fact was announced to the agent of the contractor, by an *official* letter from the Treasury department; but, which letter, with a view to excite suspicions against its head, was called "a private correspondence."*

* The contractor had recently become bankrupt, owing to large speculations in the stocks. This official letter, dated seventh April, 1791, is in exist-

The Report of this committee was deferred until the last day of the Session. After a minute detail of facts, it assigned, as the principal causes of the disaster; the delay in furnishing materials and estimates for legislation to protect the frontiers; from which cause, the time to complete and discipline the army was insufficient; gross and various mismanagements in the Quarter-Master's and Contractor's departments; the lateness of the season; and the want of experience, and discipline in the troops. St. Clair was expressly exculpated from all censure. "His conduct in all the preparatory arrangements" was stated, to have been marked with peculiar ability, and zeal; "and during the action, to have furnished strong testimonies of his coolness and intrepidity."

By this express exculpation, the popular discontents were directed against the Secretaries of War, and of the Treasury. No possibility of disabusing the public mind existed, owing to the period, to which the Report had been deferred. The misrepresentation was extensively circulated through the continent; and, became an important auxiliary in increasing the hostility towards the administration, at the approaching election of President.

On the eighth of May, Congress adjourned.

ence. It stated a willingness, "in order, that the public service might be effectually and certainly performed, to make two periodical advances; and, if there was satisfactory evidence that the public service called for supplies which had been furnished, a further sum, though he should not be then ready to comply with the forms of the Treasury."

CHAPTER LXXI.

It has been stated, that "the origin of the great parties, which have divided this country, had an intimate connection with the project of forcing General Washington from the command of the army." These parties were now distinctly formed; and it becomes necessary to suspend this narrative, in order to a just perception of the motives and influences, which actuated the opponents of the Government.

The hostility to Washington, as Commander-in-Chief, it has been seen, did not proceed on the ground of any alleged abuse of the powers confided to him, an allegation which his eminent virtue forbade, but of his imputed incapacity. His want of capacity to command was the pretext for the selection of Gates, who, had he possessed abilities equal to the pre-eminence to which he aspired, might have changed the course and character of the Revolution. But, the true source of this opposition is to be found in the jealousy of New England towards Virginia, then "the most populous State in the Union"—"proud of her ancient dominion"—"thinking she had a right to take the lead."* It was in the commencement, a geographical division—the Democratic East againt the Aristocratic South.

* Letter of John Adams to T. Pickering.

To establish the Independence of this country, an exertion of all its resources was necessary. The friends of Washington were, therefore, the friends of energetic counsels. His opponents, resorted to the usual instrument of disaffection, an appeal to jealousy of power.

The Revolution could not be accomplished without an efficient direction and exertion of the United energies of the States. The friends of Washington, were therefore, (as the political power was divided,) necessarily, the friends of Federal powers. His adversaries claimed to be exclusively the advocates of State Rights. The supporters of the Federal Republic were subsequently denominated The Federal Party. The advocates of the separate sovereignties formed the germ of the Democratic party.

When the necessities of the country prompted an enlargement of the powers of the Confederation, the same array of parties and of individuals was seen. When the question assumed the still more interesting form of the institution of a National Government, the division was the same; but, in the progress of the discussions to which it gave rise, States and individuals changed their ground. The Commercial interests of New England, overcame her prejudices; and rendered her favorable to a Government, armed with powers adequate to their protection. She gave it a zealous and hearty support. The ambition of New York and Virginia, based on their large territorial possessions, was hostile to such a Government. Unwilling to adopt, and afraid to reject the Constitution, these reluctant members of the Union, for a long time, regarded it, with an unfriendly eye.

Had it been possible to have regulated the Commerce of the whole United States, without affecting the internal polity of the Individual States, the benefits of such regula-

tion would have soon reconciled them to the relinquishment of their power over this great interest. But this regulation involved a control of other subjects, the most deeply interesting to political bodies, tenacious of their own independence.

No regulation of Commerce could be made, without legislation upon Revenue, and upon taxation, as the means of raising revenue. This has been seen, to have been the great dividing question from the termination of the War, to the adoption of the Constitution. The difficulties of this question were increased by the unavoidable disposition of another; the apportionment, not merely of the future, but, of the past burdens of the country. The action of the Congress of the Confederation was frequently embarrassed by this question. Its Legislation was too often warped, by attempts to elude a due participation in the necessary contributions. These attempts familiarized the public mind to false views; and rendered current, opinions hostile to the first principles of public and private justice.

In determining the extent of the powers of the new Government, the difference of opinion on this subject was constantly operative. When the idea of taxing the States, in their collective capacities, was abandoned in the Convention; the disposition of the taxing power became a subject of much difficulty. One set of opinions was in favor of conferring on the National Government, a paramount, general power of taxation; and, a subordinate or limited power on the States, specifying its objects. Another, would have confined certain objects, exclusively, to the United Government, and others to the States; thus dividing the power of taxation. A third, was in favor of a general concurrent power of taxation in the National and State Governments; and ultimately prevailed, with

the exception of the revenue from Imports and Tonnage, which, necessarily, was exclusively vested in the Union.

The adoption of this compromise, though not unattended with serious difficulties, in the beginning of its operation, was one of the greatest triumphs of an enlarged view of the wants, interests, duties, and powers of a Nation.

The supporters of the Federal Constitution, when it was established, looked to it as the only means of preserving the Public faith. Its opponents, provided they could enjoy the fruits of the Revolution, were not sedulous as to the obligations it had imposed.

But the debt of the Revolution, if paid, must be paid by the agency of a well-digested system of public credit. No exertion of the resources of the country would be equal to its immediate discharge. Thus, in the great division of parties, the friends of the Constitution, and the friends of public credit were identified. It was a natural consequence of this division, that the creditor part of the people were of the party of the Constitution. The debtors, in general, arrayed themselves with its adversaries. Hence, in its very commencement, the National Government was compelled to encounter the hostility of this most numerous portion of the community; and, Hamilton, as the head of the Treasury department, was the member of the administration against whom that hostility would be, and was directed.

In no human breast, was the love of justice a more dominant feeling. He truly regarded it, as the great "end of Government"* that, to which all others ought to be subordinate. With its establishment, he identified his political fortunes and his fame.

The previous narrative has disclosed the remarkable

* "Justice is the end of Government."—Federalist, by Hamilton.

fact, that the opposition to his administration, commenced with an opposition to the measures recommended by him, "to answer the calls of justice"—the proposed Discrimination between the public creditors, and the opposition to the Assumption, being, in reality, appeals to the debtor part of the community.

Of this opposition, commenced in the Legislative deliberations, it has been seen, Madison was the leader.

The evidence having been given, that he had committed himself explicitly to every one of the principles of Hamilton's system of finance; repudiating a discrimination between the different classes of creditors, as impolitic and unjust;* explicitly approving the assumption of the State debts; † recommending an excise; ‡ and urging, in addition, an early resort to a direct tax, and a limited Stamp tax; the grounds of his opposition to it must necessarily be traced to some other motive or influence, than a genuine distrust of that system.

Succeeding to the highest office in the Government through the influence of Jefferson; and, thus, commanding the favor and the credence which high office often gives; surviving all the other members of the Federal Convention; and, thus, without fear of contradiction, in

* Address to the Public creditors of 26th April, 1783, from the pen of Madison, ante vol. ii. 524. "The voice of policy no less than of *justice*, pleads in favor of *all* the creditors."

† Ibid. page 518.—Resolved, "that, conformably to the liberal principles on which these recommendations are founded, and with a view to a more amicable and complete adjustment of all accounts between the United and Individual States, *all* reasonable expenses, which shall have been incurred by the States *without the sanction of Congress* in their defence against or attacks upon British or savage enemies, either by sea or by land, and which shall be supported by satisfactory proofs, shall be considered, as part of the common charges incident to the present War."—Autograph report of Madison on files of the Department of State.

‡ Letter to Hamilton, infra, p. 61.

the narrative of its debates, when not concealing, presenting his own views prominently; distorting or suppressing the views of others, he * would be regarded as the author of the leading provisions of the Constitution. But such is not the fact, such was not the estimate of his cotemporaries. † His tortuous course inspires caution; and the student of American History will look the more inquiringly beneath the veil thus cast upon the story of a man, whose career is the most to be lamented in the annals of this country. His powers of good were great, greatly were they abused; for he among the first urged Washington to accept the Presidency; and, he first, and most assiduously, opposed the measures Washington approved.

The President's large confidence in Hamilton was the true source of his opposition. The pretexts, were Hamilton's predilection for a Government of greater energy; and the principles he adopted in his construction of the Constitution, tending to increase that energy. But, that these were mere pretexts, there is conclusive evidence.

In his propositions and votes in the Convention, Madison went farther than any other member, as to the controlling powers he would have intrusted to the Government; while, from his proposed structure of it, must have resulted early dissolution, or an intolerable tyranny.

* In his introduction to the Debates of the Convention, ii. 714, Madison prefers this claim.

† "Hamilton might lay his hand upon his heart, and declare; I am the man to whom this people are indebted for their Constitution."—Charles Carroll of Carrollton. "His" (Hamilton's) "private correspondence contains the *first* suggestion of it" (the Constitution), "and proves, that he had conceived the main features of the Constitution of the United States, even before the Confederation itself was established."—Curtis's History of the Constitution, i. 350; ibid. i. 413. "Doubtless in the formation of our Constitution, the profound sense of Washington was the acceding authority, but the suggesting intelligence was Hamilton's; and he, is to be regarded, above all other men, as the creator of the institutions of modern liberty."—Griswold's "Republican Court."

As to the SOURCE and DEPOSITORY of the LEGISLATIVE power, while Madison would have preferred to derive the House of Representatives, the great defender of liberty, and impeaching body, from "freeholders;"* Hamilton would have confided the choice to the "free male citizens and inhabitants of the several States comprehended in the Union; all of them, of the age of twenty-one years, being entitled to an equal vote."† Thus, anticipating public feeling, he recognized, as he observed, "the idea of a perfect equality of political rights among the citizens, exclusive of all permanent, or hereditary distinction," by the proposal of Universal suffrage in the choice of the popular branch of the Legislature. Nor was Madison's approval of the choice of the Representatives, even, by freeholders, "a formed opinion, for he submitted it, as an open question, whether they should be chosen by the people, or by the State Legislatures.‡ As to the SENATE, Madison gave no definite opinion, though he would have preferred, it should have been chosen by the House of Representatives. Both branches, he contemplated, should consist of few members. "The more the Representatives of the people were multiplied, the more," he said, "they partook of the infirmities of their constituents; the more liable they became to be divided among themselves, either from their own indiscretion or the artifices of the opposite faction; and, of course, the less capable of fulfilling their trust."—"When the weight of a set of men depends, merely, on their personal characters, the greater their number, the greater the weight. When it depends on the degree of political authority lodged in them, the smaller

* "Viewing the subject on its merits alone, the *freeholders* of the country would be the safest depositories of American liberty."—Debates, 756.

† Hamilton's plan of a Constitution.

‡ Madison to Washington, Washington's Writings, ix. appendix.

the number, the greater the weight."* To this small number, he would have given the political authority of a negative on the State laws. †

Hamilton would have confided the choice of the SENATE to electors chosen by the people, limiting the choice to those, "having an estate in land, for life or a specified term of years." He provided, that the number should never be less than forty, but might be increased in the ratio of forty to one hundred, his proposed commencing number of the House of Representatives; and the only powers he would have imparted to it, not common to both branches, were, those of declaring war, ratifying treaties, and of assent or dissent in the appointment of officers.

As to the NATIONAL EXECUTIVE, Madison wrote to Washington, five weeks before the meeting of the Convention, so inchoate were his opinions, "I have scarcely ventured, as yet, to form my own opinion, either of the manner in which *it* ought to be constituted, or, of the authority with which it ought to be clothed;" and his earliest declared opinion was in favor of a plural Executive ‡—a political monster, maimed, and distorted by the qualified negative of the Judiciary.

From the very outset, Hamilton proposed a single Executive, confiding the choice to the people—"to the citizens of each State, having an estate of inheritance, or for three lives, in land; or a clear personal estate of the value of a thousand dollars;" § imposing upon him an undivided responsibility—to hold office during good behavior, having thus the highest motives to duty; with powers adequate to its purposes, and subject to the real check of an efficacious court of impeachment, by its constitution responsible to, and interested both in the National and State governments.

* Madison's Debates, 815.

† Ibid. 827.

‡ Infra, iii. 263.

§ Ibid., iii. 288.

As to the National Judiciary, Madison proposed its appointment by the Senate,* connecting it with the Executive, as a "revisionary council,"† thus, authorized to act politically, upon laws, it was to expound, juridically. Hamilton gave the appointment of the Judges to the Executive, with the consent of the Senate;‡ charging the Judiciary, solely, with Judicial duties; and making it, by its tenure, the independent Guardian of the Constitution.

Such were Hamilton's views of the *structure* of the Government, as exhibited in his first plan of a Constitution; his second assuming a still more popular form.

As to the extent of the Powers of the National Government, Madison's view was, that "the National Government should be armed with positive and complete authority in all cases which require uniformity."§ For the exposition of the extent of this power, he provided no exponent. He "doubted, whether it was not going too far to extend the jurisdiction of the Court, generally, to cases arising under the Constitution; and whether it ought not to be limited to cases of a Judiciary nature. The right of expounding the Constitution, in cases not of this nature, ought not to be given to that department."‖

Hamilton would have given to the National Legislature the "power to pass all laws which they shall judge necessary to the common defence and general welfare of the Union;" but, he would, as has been seen, have expressly clothed the National Judiciary with "jurisdiction in all questions, in which the fundamental rights of the Constitution were involved." Thus, as the wants of a

* Madison's Debates, 855. † Ibid., 809.

‡ Hamilton's Works, ii. 402.

§ Washington's Writings, ix., Appendix.

‖ Madison's Debates, 1438.

nation cannot be limited, he would have conferred, in this general grant, a plenary power of taxation to provide for the common defence, and to promote the general welfare. Madison intimated—"*perhaps some defined objects* of taxation might be submitted, along with commerce, to the general authority." *

Over the exertion of this ample, though indispensable money power, Hamilton saw the importance of giving the control to the popular branch of the Legislature; and, therefore, provided that "bills" for this purpose shall "originate" in this branch. Madison proposed to strike out this provision; "considering it as fettering the Government, and as a source of injurious altercation between the two Houses." † He was overruled.

While Hamilton labored to constitute a Government, resting wholly on the shoulders of the people, not on the artificial beings—the States—a Government complete in itself, in its organs and its powers, acting through the mild and steady influence of its own supreme laws, appealing to the reason, the interests, the affections, and the fears of the governed; Madison would have given to the National Legislature, a negative on the State laws; thus inviting dissension—to be silenced by the sword—under his declared right to coerce. "He could not," he relates, "but regard an *indefinite power* to negative legislative acts of the States, as absolutely necessary to a perfect system." ‡ "I apprehend the greatest danger is from the encroachment of the States on the National government." "If it was the case, that the National government *usurped* the State governments, if such *usurpation* was for the good of the whole, no mischief could arise." §

* Washington's Writings, ix., Appendix.

† Madison's Debates, 1267.

‡ Madison's Debates, 632.

§ Yates' Notes of Secret Debates, 148.

"The weaker you make your Confederation, the greater the danger to the lesser States. They can only be protected by a strong Federal government." * "Some contend that the States are sovereign, when, in fact, they are only political societies. There is a gradation of power in all societies, from the lowest corporation to the highest sovereign. The States never possessed the essential rights of sovereignty. These were always vested in Congress. * * * The States, at present, are only great corporations, having the power of making bye-laws; and these are effectual only if they are not contradictory to the general confederation." "The States ought to be placed under the control of the General government; at least, as much so as they formerly were under the King and British Parliament." † This coercive power,‡ early

* Yates' Notes of Secret Debates, 181.

† Ibid., 184–185. One of the most remarkable instances of artifice to evade the truth, is seen in a letter of Madison to N. P. Trist—"Selections from the Private Correspondence of James Madison," by J. C. McGuire, p. 233. After questioning the accuracy of the "Secret Debates" of Yates, Madison, in his defence, proceeds: "Who can believe that so crude and untenable a statement could have been intentionally made on the floor of the Convention, as 'that the *several States* were political societies, *varying* from the *lowest* corporations to the *highest sovereigns*,' or 'that the States had vested *all* the *essential rights* of Government in the *old* Congress.'"

Yates makes no such statement. His words are accurately quoted in the text. "Some contend that States are sovereign, when, in fact, they are only political societies. There is a gradation of power in all societies, from the lowest corporation to the highest sovereign. The States never possessed the essential rights of sovereignty. These were always vested in Congress."

Thus, Madison is seen deliberately *fabricating* a *misquotation* from this work, and arguing its *inaccuracy* from his *own false quotation*. The language of the "Secret Debates" speaks the truth, and doubtless, comparing it with other language of Madison, in other pages of these Debates, is that which he spoke.

‡ "A navy so formed (by Congress) and under the orders of the General Council of the State, would, not only be a guard against aggressions and insults from abroad, but, without it, what is to protect the Southern States for

contemplated by him, he continued to espouse to late sittings of the Convention, with the same apprehension as to the source of danger. Hamilton derided, again and again, a resort to a coercive power, as a mode of Government. To form a plan on such a principle, would be, he declared, "to enact a civil war." "Force cannot effect it." "Where this becomes the ordinary instrument of government, there is an end to liberty." *

How great Madison's reluctance to the Constitution! how small his confidence in it are seen in his letters addressed to Jefferson during the session of the Convention. "These are the outlines. The extent of the plan may, perhaps, surprise you. I hazard an opinion, nevertheless, that the plan, should it be adopted, will neither effectually answer its national objects, nor prevent the local mischiefs which everywhere excite disgusts against the State governments. The grounds of this opinion will be the subject of a future letter. * * * * My own idea is, that the public mind will now, or in a very little time, receive any thing that promises stability to the public councils and security to private rights; and, that no regard ought to be paid to local prejudices, or temporary considerations. If the present moment is lost, it will be hard to say what may be our fate." † "If the plan proposed be worthy our adoption, the degree of unanimity attained in the Convention, is a circumstance, as fortunate, as the very dissent on the part of Virginia, is a subject of regret." ‡

After the Federal Constitution had been adopted, he wrote: § "It has been remarked, that there is a tendency

many years to come, against the insults and aggressions of their Northern brethren?"—Madison's Debates, i. 88.

* Hamilton's Works, vii. 164.

† September 6, 1787. ‡ September 20, 1787.

§ Madison to Jefferson, October, 17, 1788.

in all Governments to an augmentation of power at the expense of liberty; but the remark, as usually understood, does not appear to be well founded. Power, when it has attained a certain degree of energy and independence, goes on generally to further degrees. But, when below that degree, the direct tendency is to further degrees of relaxation, until the abuses of liberty beget a sudden transition to an undue degree of power. With this explanation, the remark may be true; and, in the latter sense only, it is, in my opinion, applicable to the *existing Governments* in America." Soon after, he wrote: "It is of infinite importance to the cause of liberty, to ascertain the degree of it which will consist with the purposes of society. An error on one side may be as fatal as on the other. *Hitherto* the error in the United States, has been in the excess." *

Another pretext for Madison's opposition, is shown to have been sought in the principles applied by Hamilton in *construing* the Constitution. Yet, in his own comments upon it, Madison expressly assents to the view, previously taken by Hamilton, that "the defects of the existing Confederation could not be supplied by a Government of less energy," than that he was defending.

As to the principles which ought to govern in determining the extent of the LEGISLATIVE powers granted, their views were precisely the same. Essays of the Federalist, written by Madison † go the whole length of the arguments used by Hamilton, in support of those measures, the constitutionality of which Madison subsequently controverted. And, when discussing the amendments to the Constitution proposed in Congress, though he afterwards professed to confine its powers to those *expressly*

* To Mazzei, Dec. 18, 1788. † Nos. 41, 45.

delegated, he is seen opposing a proposition to that effect; avowing the obvious truth, "that no Government ever existed, which was not necessarily obliged to exercise powers by implication." *

Had there been any disclosure of opinions by Hamilton, as to the practical operation of the Constitution, either in the organization of the great departments, or in the limitations on the exercise of the powers of those departments, to awaken the alarm of a mind wisely jealous of the liberties of his country? There had been none. From the time that the latest number of the Federalist appeared, to the moment when Madison's opposition to Washington's administration commenced, and through all its stages, in vain are such opinions sought to be traced to him. But it is a fact, which has been shown in these pages, and cannot be forgotten, that in the first session of the first Congress, Madison avowed principles, contended for principles, and acted upon principles, extending far beyond any which Hamilton ever espoused.

The legislative declaration as to the Executive power of "REMOVAL" made by the first Congress in the Acts organizing the great Executive departments, it has been seen, was viewed with much jealousy by the House of Representatives, and only passed the Senate by the casting vote of the Vice-President.

Experience has shown the consequences of this interpretation; but, these are of inferior importance to the dangers of the tremendous doctrine by which it was defended. The Constitution declares, that, the President "shall nominate, and by and with the advice and consent

* June 27, 1788, Madison writes from Virginia—"The plan of the opposition there was to undo their work by two-thirds of the Legislatures, or to get a Congress, in the first instance, that will *commit suicide* on their own authority."

of the Senate, shall appoint." As to removals, except in the case of convictions on impeachment, it is silent. The power of removal, therefore, is necessarily incident to and results from that of appointment; and is to be exercised by the same authority—the President and Senate.

To avoid this consequence, after it had been contended, that no such power of removal, (by the President alone,) was either directly or impliedly given by the Constitution to the President; that his powers are thereby declared, but no such power is pointed out; Madison assumed the broad doctrine, that "the Executive power is in the hands of the President;" observing, "if the Constitution has, in general, vested ALL executive powers in one branch, the Legislature has no right to diminish or modify them any further, than is expressly provided by the Constitution;" and affirming, that this is "the general principle to which there is *one* exception," that of the limited appointing power.

Here is a distinct claim of a general grant of Executive power to the President, founded on the language of the second article of the Constitution, which, merely describing the department, declares, "that the Executive power shall be vested in a President of the United States of America," without regard to the subsequent specification and limitation of his powers in that article; without regard to the analogy in the limited powers of the legislative and judicial departments of the Government; in total disregard of the whole tenor and spirit of that Constitution, studiously replete with checks, qualifications and restrictions.

The ground on which the right to give this interpretation was placed by Madison, is, that "if it was merely a declaration of the Constitution, it *can do no harm*; if it relates to a doubtful point, it lays with the whole Legisla-

ture to give an explanation; and if the *Constitution is totally silent, Congress may use its discretion;*" and this *discretion* was used by a false induction, implying an exception in favor of the President, of a most important part of the general power of appointment—confided expressly to the President and Senate, jointly—to the exclusion of the Senate.*

Having, by the largest possible implication, conferred on the President the power of controlling and corrupting the nation; and with it, increased the temptation to do so, Madison defended the measure, on the ground, that "when it is considered, that the Chief Magistrate is to be selected from the mass of the citizens by the united suffrages of three millions of people, notwithstanding the WEAKNESS INCIDENT TO A POPULAR ELECTION, he could not suppose, that a vicious and bad character would be chosen."

Usurpation is prolific. Thus having given to the President the sole uncontrolled power of removal, one more constructive violation of the Constitution became convenient. After indicating how the power of appointment should be exercised, to guard against contingencies, the Constitution provided, that "the President shall have power to fill up all vacancies *that* MAY *happen* during *the recess* of the Senate, by granting commissions, which shall expire at the end of their next session." At a later period of our history, the construction given by the Democratic leaders was, that this clause conferred a power to *cause* a vacancy by removal, and then to fill it! It is to be observed, that these views as to the power of the Presi-

* Madison to Jefferson, January 24, 1790—"I was apprehensive that the alarms with regard to the danger of monarchy, would have diverted their attention from the impropriety of transferring an executive trust, from the most to the least responsible member of the Government."

dent, were not advanced by Madison for the occasion. In a debate in the Convention upon this subject, he avowed, that it was sufficient to declare, that "a National Executive be instituted, with power to carry into effect the National laws; to appoint to offices, in cases not otherwise provided for; and to execute such other powers, not legislative or judiciary in their nature, as may, from time to time, be delegated by the National Legislature." To a motion to expunge all, but the first member of the proposition, he assented, on the ground of "the whole being, perhaps, included" in it.*

With these doctrines, Hamilton's views and language may be compared. When commenting on this part of the Constitution, he speaks of the President's power, as "the power of nomination;" † and points to the co-opertion of the Senate in appointments, "as an efficacious source of stability in the Administration."

In further examination of this subject, he observes: "It has been mentioned, as one of the advantages to be expected from the co-operation of the Senate in the business of appointments, that it would contribute to the stability of the Administration. *The consent* of *that body* would be necessary to *displace*, as well as to appoint. ‡

* Debates, 765. † Federalist, Nos. 76, 77.

‡ In a letter of Madison to W. C. Rives, this statement is seen—"Selections," &c., by J. C. McGuire, p. 108; January 10, 1829. "In the Federalist, he (Col. Hamilton) had so explained the removal from office, as to deny the power to the President. In an edition of the work at New York, there was a marginal note to the passage, 'that Mr. H. had changed his view of the Constitution on that point.'" *No such marginal note, or equivalent, or similar, or proximate statement ever existed or now exists in any edition of the Federalist.* In the edition revised by John Wells, Esq., with Hamilton's sanction, published at New York, in 1802, *this* marginal note is to be seen to the passage referred to in the 77th No. of the Federalist, and *no other*: "This construction has since been rejected by the Legislature; and it is settled in practice, that the power of displacing belongs exclusively to the President."

A change of the Chief Magistrate, therefore, would not occasion so violent or so general a revolution in the officers of the Government, as might be expected if he were the *sole disposer of offices.* Where a man, in any station, had given satisfactory evidence of his fitness for it, a new President would be restrained from attempting a change in favor of a person more agreeable to him, by the apprehension, that a discountenance of the Senate might frustrate the attempt, and bring some degree of discredit upon himself. Those, who can best estimate the value of a *steady* Administration, will be most disposed to *prize* a provision, which connects the official existence of public men with the approbation or disapprobation of that body; which, from the greater permanency of its own composition, will, in all probability, be less subject to inconstancy, than any other member of the Government." *

The same regard to the letter and to the spirit of the Constitution, led him to declare, in reference to the "power to fill up all vacancies, that may happen during the recess of the Senate," that these terms imply *casualty*, and denote such offices as, having been once filled, have become vacant by *accidental circumstances.*" †

Widely different, also, was Hamilton's view of the second article of the Constitution. Instead of arrogating all executive power to the President, with "*one exception*," he admits, in analogy with the other parts of the Constitution, "that the Executive power of the nation is vested in the President, subject only to the exceptions and qual-

* In the 72d No. of the Federalist, Hamilton says—"These considerations, and the influence of personal confidences and attachments, would be likely to induce every new President to promote a *change of men, to fill the subordinate stations;* and these causes, together, could not fail to occasion a disgraceful and ruinous *mutability* in the administration of the Government."

† Hamilton's Works, v. 255.

ifications which are expressed in the Instrument;" and, when discussing that department, he examines each power in detail, as enumerated in the Constitution, and explicitly confines the President's powers to those specially enumerated;* claiming for him, no others, than such as are necessarily implied to execute the powers expressly granted.

The earlier political action of Madison was conformable to his earlier thories. In the organization of the Executive departments, he is beheld, a strenuous advocate for all the trusts confided to those departments; and foremost to deride apprehensions of the undue influence to result from those trusts.

When the question of the pay of the respective branches of Congress came up, he contended for a higher rate of compensation to the Senators, as a proper distinction. "My opinion was, in favor of a difference founded on a reduction of the sum proposed with regard to the House of Representatives, and an augmentation as to the Senate." † Yet, he sanctioned a subsequent statement, that this distinction "seemed more consistent with the spirit of aristocracy, than the equality of rights in a Republic," ‡ and, though he condemns a Senator from Virginia, who

* Having reviewed the nature and extent of the *six* first powers conferred upon it, he proceeds—"The *only remaining powers* of the Executive are comprehended in giving information to Congress of the state of the Union; in recommending to their consideration such measures as he shall judge expedient; in convening them or either branch, upon extraordinary occasions; in adjourning them, when they cannot themselves agree upon the time of adjournment; in receiving ambassadors and other public ministers; in faithfully executing the laws; and in commissioning all the officers of the United States."—Federalist, No. 77.

† Madison to Monroe, August 9, 1789.

‡ Tucker's Jefferson, i. 312, 316. Nearly the whole of the first volume, the author states, "was submitted to Madison, and received the benefit of his correction, as to *matters of fact*."

had been preferred to himself, for his vote to confer a title on the President, yet, when in the Federal Convention a title was proposed to be annexed to that office, he voted for it. *

Thus on a survey of Hamilton's first plan of a Constitution—for his second plan was still more popular—of his views of the theory of this Government; of his exposition of its powers; of his system of finance, he is not found in any position, as to which Madison could consistently take an opposite stand, as the champion of opinions more favorable to freedom; to State rights; or to wise popular influences. This survey indeed shows, that while Hamilton's progressive course was to a more popular form of Government, that of Madison was in an opposite direction.

When released from fealty to the British Crown by the Declaration of Independence, at the age of twenty, Hamilton is seen, in seventeen hundred and seventy-seven, the advocate of a popular Government. "A Representative Democracy," he wrote, "where the right of election is well secured and regulated, and the exercise of the Legislative, Executive, and Judiciary authorities, is vested in select persons, chosen really, and not nominally, by the people, will, in my opinion, be most likely to be happy, regular and durable." His apprehension then was, that, "the Senate" (of New York) "from the very name, and from the mere circumstance of its being a separate member of the Legislature, will be liable to degenerate into a body purely aristocratical." †

* Madison to Jefferson, May 21, 1789. Madison's Debates, 1417. "On the question for vesting the power in a *single person*, it was agreed to *nem con.* So also on the *style* and *title.*" Hamilton was absent at this time, August 24, 1787.

† Hamilton's Works, vi. 582.

In his examination and defence of the Constitution of the United States, he is seen its advocate as "a REPRESENTATIVE DEMOCRACY,"* "the whole power of Government being in the people, exercised" *not* "by themselves, but by their Representatives."

This was the great distinction of which he never lost sight. "It has been observed," he declared in the Convention of New York, "that a *pure democracy*, if it were practicable, would be the most perfect Government; experience has proved, that no position in politics is more false than this. The ancient Democracies, on which the people themselves deliberated, never possessed one feature of good Government. Their very character was tyranny —their figure deformity."† But, "the true principle of a REPUBLIC is, that the people should choose whom they please to govern them. Representation is imperfect, in proportion, as the current of popular favor is checked. This great source of Free Government—popular election—should be perfectly pure, and the most unbounded liberty allowed. Where this principle is adhered to; where, in the organization of the Government, the Legislative, Executive, and Judicial branches are rendered distinct; where, again, the Legislature is divided into separate Houses, and the operations of each are controlled, by various checks and balances, and above all, by the vigilance and weight of the State governments; to talk of tyranny, and the subversion of our liberties, is to speak the language of enthusiasm." "We all with equal sincerity, profess to be anxious for the establishment of a REPUBLICAN GOVERNMENT, on a safe and solid basis. It is the object of the wishes of every *honest* man in the United States; and, I presume, I shall not be disbelieved, when I declare, that it is an object of all others, the nearest and most dear to

* Hamilton's Works, ii. 465. † Ibid. ii. 440.

my own heart. The means of accomplishing this great purpose, become the most important study, which can interest mankind."* "There have been, undoubtedly, some who have had speculative doubts on the subject of Government, but the principles of Republicanism are grounded on too firm a basis to be shaken by a few speculative and skeptical reasoners." †

Regarding "the British Constitution as the best," existing "form"—avowing the opinion that "real liberty is neither found in despotism, nor in the extremes of Democracy, but in moderate Governments,—that those, who mean to form a solid Republican Government, ought to proceed to the confines of another Government;" that, "as long as offices are open to all men, and no Constitutional rank is established," "it is pure Republicanism;" he urged the caution "if we incline too much to Democracy, we shall soon shoot into a Monarchy. The difference of property is already great among us. Commerce and industry will still increase the disparity. Your Government must meet this state of things, or combinations will, in process of time, undermine your system. What was the tribunitial power of Rome? It was instituted by the plebeians, as a guard against the patricians. But was this a sufficient check? No! The only distinction which remained at Rome, was, at last, between the rich and the poor." * * * "The danger of the Eastern States was the DEMOCRACY—MONARCHY in the Southern."

Well considered; it will not be easy to trace in a candid unreserved exhibition of any mind, a finer development of the love of liberty, burning bright and free in a warm, firm, independent youthful breast, drinking at the living sources of a high philosophy—taught the danger of excess, by an early and earnest and active manhood—

* Hamilton's Works, ii. 444. † Ibid. ii. 445, 413, 416.

matured into wisdom, by a large experience, balanced by much reflection—comprehensive study. And it may truly be said, it was his theory, modified by practice, and his practice, counselled by theory, that made his life of such eminent value to the people he served, with courage, and with truth.

Nor, were the struggles between the *little* democracies of the Northern and the little monarchies of the Southern States—(the fruits of excessive liberty, and of slavery)—to him, the only sources of interest and of sympathy.

His value of the first of human rights—Freedom—was not confined to any class, or color, or condition, of human beings. When vindicating the measures of the Congress of seventeen hundred and seventy-four, he declared, "ALL men have one common original; they participate in one common nature, and consequently have one common right. No reason can be assigned, why one man should exercise any power or pre-eminence over his fellow-creatures, more than another, unless they have voluntarily vested him with it." "Were not the disadvantages of SLAVERY too obvious to stand in need of it, I might enumerate and describe the tedious train of calamities inseparable from it. I might show, that it is fatal to religion and morality—that it tends to debase the mind, and corrupt its noblest springs of action; I might show, that, it relaxes the sinews of industry, clips the wings of commerce, and introduces misery and indigence, in every shape. The page of history is replete with instances, that loudly warn us to beware of slavery." "What original title can any man or set of men, have to govern others, except their own consent"—"that law of nature, which gives every man a right to his personal liberty, and can, therefore, confer no obligation to obedience."

He had seen slavery in the West Indies. It existed before him, and around him. It existed almost throughout the United Colonies. Whom did he regard as slaves? "When any people are ruled by laws, in framing which they have no part, that are to bind them, to all intents and purposes, without in the same manner binding the legislators themselves, they are, in the strictest sense, slaves." "I consider civil liberty, in a genuine unadulterated sense, as the greatest of terrestrial blessings. I am convinced, that the whole HUMAN RACE, is entitled to it; and, that it can be wrested from no part of them, without the blackest and most aggravated guilt."

These were not the theoretic opinions of early enthusiasm. He meant the whole human race; and looked to the emancipation of the blacks, as part of the great sacrifice to be laid by the American people on the altar of Freedom. He thus writes to John Jay, then President of Congress, on the fourteenth of March, seventeen hundred and seventy-nine, while chief of Washington's staff, recommending the raising "of two, three or four battalions of Negroes, with the assistance of the Government" of South Carolina, "by contributions from the owners, in proportion to the number they possess." "The contempt we have been taught to entertain for the blacks, makes us fancy many things, that are founded neither in reason nor experience; and an unwillingness to part with property of so valuable a kind, will furnish a thousand arguments to show the impracticability or pernicious tendency of a scheme which requires such sacrifices. An essential part of the plan is to give them their FREEDOM with THEIR SWORDS, this will secure their fidelity, animate their courage; and, I believe, will have a good influence upon those who remain, by OPENING A DOOR TO THEIR EMANCIPATION. This circumstance, I confess, has *no small weight*

in inducing me to wish the success of the project; for the dictates of humanity and true policy, equally interest me, in favor of that unfortunate class of men." *

Pursuing this idea, it was, that in seventeen hundred and eighty-three, when a proposition in Congress fixing the rate of contribution, embracing three-fifths of the slaves, had failed, the vote of New York being lost, owing to his absence, Hamilton moved a reconsideration of the question. He then offered an amendment, by which the apportionment of the expenses was to be in proportion "to the whole number of white and *other free* inhabitants of every age, and sex, and *condition*, including those bound to servitude for a term of years, and three-fifths of *all other persons* not comprehended in the foregoing description, except Indians, not paying taxes, in each State," to be comprehended in a triennial census, and transmitted to Congress.*

This principle, he embraced in his plan of a Federal Constitution;† and it was incorporated in the Constitution of the United States. Carrying into effect his view as to the ultimate emancipation of the blacks, in this same plan, he gives the choice of the House of Representatives, not to the free *white* male citizens and inhabitants in the Union; but, to the "free male citizens and inhabitants" without distinction of color; and, when urging the adoption of the Constitution by New York; he advocated, "a representation of three-fifths of the Negroes." "It is," he said, "the unfortunate situation of the Southern States to

* Hamilton's Works, i. 77, March, 1779. Two years after, NEW YORK carried into effect this proposition, by an Act, which gave *freedom* to all *slaves* who should serve in the American army for the term of three years, or until regularly discharged, March 20, 1781.

* 4. Journal Congress, 182, April 1, 1783.

† Hamilton's Works, ii. 396, 406.

have a great part of their population, as well as property, in blacks. It will, however, be by no means admitted, that the slaves are considered altogether as property. They are *men*, though degraded to the condition of slavery. They are *persons*, known to the municipal laws of the States which they inhabit, *as well as to the laws of nature*." *

* Hamilton's Works, ii. 434.

NOTE.

Infra. iii. 49. It is stated that Hamilton discontinued his attendance at the meetings of the "Manumission Society." A note from the minutes, just received, shows that in 1798 he was elected one of its counsellors, and was annually re-elected until his decease.

CHAPTER LXXII.

THE character and tendencies of Madison's early opinions having been shown, it may be alleged, that his abandonment of those opinions was the result of after convictions—the sacrifice of ascertained errors to a later, maturer and sounder judgment.*

Such was not his character. No man acted upon fuller consideration. No man voted with a more studious regard to the effects of his votes upon himself, upon the prejudices of his constituents, upon his future prospects.

It may also be urged, that Madison co-operated with and supported Jefferson, who, as a republican, opposed all distinctions between different classes and interests in society; all power by construction; executive influence; the whole funding system; the assumption; the excise.

Having given Madison's opinions previous to the time the great departments of the Government were filled, the

* Madison to Jefferson, May 27, 1789. "The proceedings of the new Congress are thus far marked with great moderation and liberality; and will disappoint the wishes and prejudices of many who have opposed the Government. The spirit which characterizes the House of Representatives, in particular, is already extinguishing the honest fears, which considered the system as dangerous to Republicanism. For *myself*, I am persuaded, that the bias of the Federal is on the same side with that of the State Governments, though in a much less degree."

next inquiry will be: what were those of Jefferson? His opinion as to a representation of the different *interests* in a community is found in his comments on the Constitution of Virginia.

The Senate and Assembly of that State were chosen for four years by the freeholders. He remarked: "The Senate is, by its constitution, too homogeneous with the House of delegates. Being chosen by the same electors, at the same time, and out of the same subjects, the choice falls, of course, on *men of the same description.* The purpose of establishing different houses of legislature is to introduce the influence of *different interests* or *different principles.*"—"In some of the American States, the delegates and senators are so chosen, as that the first represent the *persons*, and the second the *property* of the State, but with us, *wealth* and wisdom have equal chance for admission into both houses. We do *not*, therefore, derive from the separation of our Legislature into two houses, those benefits which a *proper complication of principles* is capable of producing, and those which alone can compensate the evils which may be produced by their dissensions."

A more explicit avowal of a preference of a privileged order, an aristocracy of wealth, representing in the Senate "the property of the State," under the influence of "different interests or different principles," can nowhere be found.*

What was his view of constructive power? He declared, that "Congress by the Confederation, have no original inherent power over commerce, but they could enter into treaties." "The moment these treaties are

* "I consider," he writes, "the class of *artificers* as the panders of vice—the instruments by which the liberties of a country are generally overturned." August 22, 1785.—Jefferson's Works, i. 291.

concluded, the jurisdiction of Congress over the commerce of the States, *springs into existence;* and that of the particular States is superseded so far as the treaty may have taken up the subject." *—"Congress have, by the Confederation, no immediate jurisdiction over commerce, they have only a power of *bringing* that jurisdiction into *existence,* by entering into a treaty."! †

Again, in allusion to the defective powers of the Confederation, Jefferson remarked: "It has been so often said, as to be generally believed, that Congress have no power by the Confederation to *enforce* any thing; for example, contributions of money. It was not necessary *to give them power expressly; they have it by the law of nature.* When two parties make a compact, there *results* to each a power of compelling the other to execute it. *Compulsion* was never so *easy,* as in our case, where a single frigate would soon levy on the commerce of any State, the deficiency of its contributions." ‡ Madison has been seen expressing the same opinion.

Hamilton denied this power altogether, and declared that, "such a scheme, if practicable at all, would instantly degenerate into a military despotism, but it will be found in every light, impracticable."—"A project of this kind is little less romantic than the monster-taming spirit attributed to the fabulous heroes and demigods of antiquity." "This may be considered as the *violent death* of the Confederacy." §

Nor was Jefferson's approval, at one period, of the Constitution of England, less distinct than that of Hamilton. Writing to Lafayette, as late as February, seventeen hundred and eighty-seven, he says: "I wish

* Jefferson's Writings, i. 236, ed. of 1830.
† Ibid., i. 311.
‡ Ibid., ii. 101. § Federalist, No. 16.

you success in your meeting, the (Assemblée des Notables). I should form better hopes of it, if it were divided into two houses instead of seven; keeping the *good model* of your *neighboring country*, before your eyes, you may get on, step by step, towards a good Constitution. Though that model is not perfect, yet, as it would unite more suffrages than any new one which could be proposed, it is better, to make that the object." *

What did Jefferson regard as the chief danger of the present Constitution? Executive influence? Not so.—When commenting "on our new Federal Constitution," he remarked: "The Executive in our Governments, is not the sole; it is *scarcely* the *principal* object of my jealousy —the tyranny of the Legislatures is the most formidable dread at present, and will be for many years. That of the Executive will come, in its turn; but it will be at a *remote* period. I know, there are some among us who would establish a monarchy, but they are inconsiderable in number and weight of character." †

Notwithstanding this alleged "dread" of legislative "tyranny," he would have retained, while separating them, "in the hands of Congress, all the powers of Government." ‡ So far from desiring to control the Executive power, after the Constitution had been some time in operation, under his own eye; after, as he subsequently stated, finding, on his arrival at the seat of Government from Europe, "a state of things, which, of all he had ever contemplated, he the least expected; politics the chief topic, and a preference of Kingly over Republican government, evidently the favorite sentiment;" he writes to Washington: "I thought a longer term of service, insuscepti-

* Jefferson's Works, ii. 203. † Ibid., ii. 443, March 15, 1789.
‡ Ibid., ii. 202.

ble of renewal, would have made a PRESIDENT *more* INDEPENDENT." *

This exposition is decisive as to his constitutional theories. His financial opinions may be adverted to.

As to the fiscal power; he asks, "Would it not have been better to assign to Congress, exclusively, the article of imposts for Federal purposes, and to have left direct taxation exclusively to the States? I should suppose the former fund sufficient for all probable events, aided by the land office."

Ere a twelvemonth elapsed, he states,—"Calculation has convinced me, that circumstances may arise, and probably will arise, wherein, *all the resources* of *taxation* will be *necessary* for the *safety of the State*." † As to the utility of the fiscal power, he writes,—"I feel strongly the necessity of preserving the power to borrow." ‡ Yet, "to keep the domestic debt at home," he thought, "it would be very effectual, if, instead of the title existing in our Treasury books alone, it was made to exist in *loose papers*." ! Still he was in favor of funding the debt. "We should set out on the English plan—laying taxes for paying the interest, and a part of the principal." §

As to the DISCRIMINATION among the public creditors, after stating the opinion "of some, that full justice would be done, if the public would pay the *purchasers* of them," (the certificates) "what they actually paid for them, and interest," he remarked, "a very great majority being firmly decided, that, they shall be paid *fully*, were I the holder of any of them, I should not have the least fear of their full payment."

* Jefferson's Works, iv. 565. "My opinion originally was, that the President of the United States should have been elected for seven years; and forever ineligible afterwards."

† Ibid., 404. ‡ Ibid., ii. 289.

§ Ibid., ii. 298, 383.

As to the ASSUMPTION of the State debts, he early wrote: "That which proposed the conversion of STATE into FEDERAL debts was one palatable ingredient, at least, in the pill we were to swallow." *

While the question of the Assumption was in debate, he writes—stating clearly and fully the different opinions entertained in Congress, and the grounds of the opposition.

On the twentieth of June, seventeen hundred and ninety, he observes to Monroe: "In fine, it has become probable, that unless they" (the Funding and Residence bills) "can be reconciled by some plan of compromise, there will be no funding bill agreed to; our credit will burst and vanish; and the States separate, to take care every one of itself." "If this plan of compromise"—a temporary residence at Philadelphia, and permanent one on the Potomac—"does not take place, I fear one infinitely worse—an unqualified assumption, and the perpetual residence on the Delaware." †

On the thirteenth of July, he remarks to Dumas: "I am in hopes a compromise will be effected, by a proportional assumption, which may reach a great part of the debts; and leave still a great part of them to be paid by those States, who have paid a few or none of their creditors." ‡ "Neither can the proposition be totally rejected, without preventing the funding the public debt altogether; which would be tantamount to a dissolution of the Government." "It was a measure of necessity." On the fourteenth of August, he wrote to Edmund Randolph: § "There really threatened, at one time, a separation of the

* Jefferson to Madison, May 7, 1783.

† Jefferson's Works, iii. 158, ed. of 1854.

‡ Ibid., iii. 57, 59, 1790.

§ Ibid., iii. 185, ed. 1854.

Legislature, sine die."—"It is not foreseen, that any thing so generative of dissension can arise again, and therefore the friends of the Government hope, that this difficulty once surmounted in the States, every thing will work well." *

Soon after Hamilton's report on public credit was published; after his propositions for an Excise, and a National Bank had been promulgated; after the funding act had passed; Jefferson wrote to Gouverneur Morris a letter, which is a monument in his history.

Adverting to a probable rupture between England and Spain, he adds, "It is not to be expected, that our system of finance has met your approbation, in all its parts. It has excited, even here, great opposition; and more especially that part of it, which transferred the State debts to the General government. The States of Virginia and North Carolina are peculiarly dissatisfied with this measure. I believe, however, that it is harped upon by many to mask their disaffection to the Government, on other grounds. Its great foe in Virginia is an implacable one. He avows it himself, but does not avow all his motives for it. The measures and tone of the Government threaten abortion to some of his speculations; most particularly to that of the Yazoo territory. But *it is too well nerved, to be overawed by individual opposition.* It is proposed, to provide additional funds to meet the additional debt, by a *tax on spirituous liquors*, foreign and *home-made*, so that the whole interest will be paid by taxes on consumption. If a sufficiency can be now raised in this way, to pay the interest at present; its increase, by the increase of population (suppose five per cent. per annum), will alone sink the principal, within a few years; operating as it will, in

* Jefferson to Eppes, July 25, 1790.

the way of compound interest. Add to this, what may be done, by throwing in the aid of Western Lands, and other articles, as a Sinking fund; and our PROSPECT IS REALLY A BRIGHT ONE."

"Our second experiment;" he wrote a month later,* "is going on happily, and so far we *have no reason to wish for changes*, except by adding those principles which several of the States thought were necessary as a further security for their liberties. * * * The powers of the Government for the collection of taxes are found to be perfect, so far as they have been tried."

Yet, regardless of these various and explicit approvals of Hamilton's financial system;—some of them, given by him, prior to its discussion; some of them, in the midst of, and at the very scene, of its discussion, at successive periods of that discussion; and others, after its close, five and twenty years later, he deliberately records the following statements as "testimony for future generations." †

"I proceeded," he records, "to New York, in March, seventeen hundred and ninety, to enter on the office of Secretary of State. * * * I cannot describe the won-

* December 3, 1790, to De Moustier.

† Having stated in his "Anas" the manner in which he had put them together, he writes—"At this day, after the lapse of twenty-five years or more, from their dates, I have given to the whole a calm revisal, when the passions of the time are passed away, and the reasons of the transactions rest alone on the judgment. Some of the informations I had recorded, are now cut out from the rest; because that I have seen, that they were incorrect or doubtful; or merely personal or private, with which we have nothing to do. I should, perhaps, have thought the rest not worth preserving; but for their testimony against the only history of that period which pretends to have been compiled from authentic and unpublished documents." The history referred to is the "Life of Washington, by Chief Justice Marshall;" and, it is worthy of note—that *no contradiction* of its statements was published by either of them, directly or indirectly, during the lives of Jefferson and Madison.

der and mortification with which the table conversations filled me. Politics were the chief topic, and a preference of kingly over republican Government was evidently the favorite sentiment.* An apostate I could not be, nor yet a hypocrite, and I found myself, for the most part, the *only advocate* on the Republican side of the question; unless, among the guests there chanced to be some member of that party from the Legislative houses. Hamilton's financial system had then † passed. It had two objects: first, as a puzzle, to exclude popular understanding and inquiry; second, as a machine for the corruption of the Legislature; for, he avowed the opinion, that man could be governed by one of two motives only, force or interest; force, he observed, in this country, was out of the question; and the interests, therefore, of the members, must be laid hold of to keep the Legislature in unison with the Executive." After stating the purchase of the certificates of debt at less than their value, by speculators, he proceeds—"In the bill for funding and paying those, Hamilton made no difference between the original holders and the fraudulent purchasers of the paper. Great and *just* repugnance arose at putting these two classes of creditors on the same footing; and great exertions were used to pay the former the full value, and to the latter, the price only which they had paid, with interest; but this would have prevented the game which was to be played, and for which the minds of greedy members were already tutored and prepared." * * * "This game

* Jefferson to Lafayette, April 2, 1790—"The opposition to our new Constitution has almost totally disappeared. * * * * If the President can be preserved a few years, till *habits of authority and obedience* can be established generally, we *have nothing to fear.* * * * The little vaut rien, Rhode Island will come over, with a little more time."

† It did not pass until late in July, 1790.

was over, and another was on the carpet at the moment of my arrival; and to this I was most ignorantly and innocently made to hold the candle. This fiscal measure is well known by the name of ASSUMPTION. * * * The more debt Hamilton could rake up, the more plunder for his mercenaries * * a pabulum to the stock-jobbing herd." He then declares, that he aided it to prevent a threatened dissolution of the Union, while he was "really a stranger to the whole subject; not having yet informed himself of the system of finance adopted; that it added to the number of the votaries of the Treasury, and made its chief, the master of every vote in the Legislature, which might give the Government the direction suited to his political views."

"Bright as the prospect" is stated by him to have been—"happily as the experiment" was represented by him as "going on," *after* these fiscal measures had passed into laws, with Washington's approval; he also records, at a future period, that, on his arrival at the seat of Government, "he found all its offices in the possession of a political sect who wished to transform it, ultimately, into the shape of their darling model—the English Government; and, in the mean time, to familiarize the public mind to the change, by administering it on English principles and English forms."

It may be asked, how does Jefferson stand on the great exigent question—the abolition, restriction, or extension of SLAVERY? Here his course was also characteristic.

At the outbreak of the American Revolution, the general sentiment of the Colonies was unfavorable to domestic slavery. Jefferson felt this sentiment, and in the Declaration of Independence, stated, as a "self-evident truth," "that all men are created equal."

In a memoir of his life, he records, that he prepared

an amendment to an Act of Virginia, digesting her laws as to slaves, granting "freedom to all born after a certain day, and deportation at a proper age, but that the public mind would not bear the proposition," and that it was not proposed.*

In his plan for the Government of the Western territory, in seventeen hundred and eighty-four, he is seen to have embodied a provision for the future exclusion of Slavery from that almost unpeopled region.† In his "Notes on Virginia," written soon after, he *omits* all mention of this proposition, but states the amendment previously contemplated to the slave law of Virginia. These "Notes" were intended for "confidential" distribution;‡ and, when requested by Chastellux to permit the publication of "extracts" from them, he imposed the condition, that his "*Strictures on Slavery*" should not be published.§ So careful was he not to incur responsibility. True it is, while State after State, from Pennsylvania, eastward, was passing successive acts of liberation, he wrote, in private, of "emancipation and expatriation," but not a shackle did he unloose. He even dissuades the "abandoning this property."‖

Alarmed by the massacres of St. Domingo, he writes, "If something is not done, we shall be the murderers of our children."¶ "The sooner we put some plan under way, the greater hope there is, that it may be permitted

* Jeff. Works, i. 40.

† Infra, vol. iii. 76.

‡ Jeff. Works, i. 441.

§ Ibid., i. 228.

‖ Jefferson to Edward Coles, Randall, iii. 643—"Are you right in *abandoning this property*, and your country with it? I think not. * * * My opinion ever has been, that we should be led by no repugnance to abdicate them, and our duties with them."—August 25, 1814. Mr. Coles removed his slaves from Virginia, gave them their freedom, and established them on his Western lands.

¶ Jefferson's Works, iv. 196.

to proceed peaceably to its ultimate effect." But not a step did he take in advance. And when the public feeling of a vast majority of the American people would no longer brook the extending thraldom of their fellow-beings—on his part, all was repression. He would affix no bounds to the extension of Slavery. He would not even compromise.

In his plan of eighty-four, "for the government of the Western territory," aspiring to a foreign mission, and needing the suffrage of the free States; before any excitement on this grave question had arisen, he proposes the institution of a Government, by Congress, over that territory, with a restriction on Slavery, as an incident to such power of institution, "without the *least color* of constitutional authority."* Yet, after the Constitution had conferred this power upon Congress, in the authority "to dispose of and make all needful rules and regulations respecting the territory or other property of the United States"†—a power to *dispose* of and regulate, wholly discretionary and unlimited, except that no territorial claims should be prejudiced, and, that when the territory was organized into States, they must be "Republican," he denies to Congress the power of imposing such a restriction.‡ He does more.

The restriction in his plan of eighty-four, was to secure the great mercy of excluding slavery from the West, but now he advises its *extension*, as an act of mer-

* Federalist, by Madison, No. 38. Infra, iii. 76.

† Constitution of the United States, Art. iv. Sec. 3.

‡ "It is *admitted*," Hamilton observes, "that, in regard to the Western territory, something *more* is intended," by the power of making all needful rules and regulations respecting it, than "ownership"—"even the institution of a Government; that is, the creation of a body politic, or corporation, of the *highest nature*."—Hamilton's Works, iv. 122.

cy. "All know," he writes to Lafayette,* "all know that permitting the slaves of the South to *spread* into the WEST, will not add one being to that unfortunate condition; that it will increase the happiness of those existing, and by *spreading* them over a *larger surface*, will dilute the evil everywhere, and facilitate the means of getting finally rid of it—an event more anxiously wished by those on whom it presses, than by the noisy pretenders to exclusive humanity." †

How far did he anticipate the "*spreading* of slavery" would extend? It would extend, in his view, with the extending population, which would "cover the whole Northern, if not the Southern continent." ‡ Nor would Jefferson have any barrier interposed by the extending influences of free opinions. He would close every crevice from their light. He would not permit even a hope—but scoffingly deprecates the danger, that the Southern youth, if educated in the free States, would "return home deeply impressed with the *sacred principles* of our HOLY ALLIANCE of RESTRICTIONISTS." § He subsequently suggested an impracticable expedient.

* Jeff. Works, vii. 194; December 26, 1820, Cong. ed.

† In 1820, the census shows the slaves in the United States, numbered a *million* and *a half* (1,538,038). In 1850, *more* than *three millions* (3,204,313). At this time, their number, probably, exceeds *four millions*.

‡ Jefferson to Monroe, Randall, ii. 674, November 24, 1801: This letter urges a remote removal of a colony of criminal blacks, lest they should come "*in contact*" with any part of the whole continent. His language is, "The same question to ourselves would recur here also, as did in the first case: Should we be willing to have such a colony *in contact with us*? However our present interests may restrain us within our own limits, it is impossible not to look forward to distant times, when our rapid multiplication will *expand itself beyond those limits*, and *cover the whole Northern, if not the Southern continent*, with a people speaking the same language, governed in similar forms, and by similar laws; nor can we contemplate with satisfaction any blot or mixture on that surface."

§ Jefferson to Cabell; Randolph ed. Works, iv. 340, January 31, 1821.—

With these views, those of Washington may be compared. Deprecating a monarchy, "What a triumph," he wrote in eighty-six, alarmed at the public confusion, "What a triumph for the advocates of despotism to find, that we are incapable of governing ourselves, and that systems founded on the basis of equal liberty are ideal and fallacious!" "I am clear," he soon after wrote, "that even admitting the utility, nay, necessity of the form, the period is not arrived for adopting the change without shaking the peace of the country." * And when Jefferson was seeking, in ninety-two, to excite his suspicions, he states, Washington told him, "As to the idea of transforming this government into a monarchy, he did not believe there were *ten men* in the United States, whose opinions were worth attention, who entertained such a thought." †

Though some of his early opinions on Finance may have been unguardedly expressed, yet he always felt the value of public credit. Referring to the defects of the Confederation, he remarked, "Virtue, I fear, has, in a great degree, taken its departure from our land, and the want of a disposition to *do justice*, is the source of the national embarrassments." After the Government had gone into operation, and he had studied Hamilton's Report on Public Credit, he gave to his system his full approbation. He disapproved the attempt to *discriminate* between the public creditors. "The subject was delicate," he wrote, "and, perhaps, had better never have been stirred."

Yet in 1785 he wrote to Dr. Price—"This" (Virginia) "is the next State to which we may turn our eyes for the interesting spectacle of *justice* in *conflict* with *avarice* and *oppression*, a conflict wherein the *sacred* side is gaining daily recruits, from the influx into office of *young men* grown and *growing up*."

* Washington's Writings, ix. 189, 247.

† Jefferson's Works, iv. 470.

While the Assumption was under debate, he wrote: "The question has occupied a great deal of time, and no wonder, for it is certainly a very important question; and, under proper restrictions and scrutiny into accounts, it will be found, I conceive, to be a *just* one. The cause in which the expenses of the war were incurred, was a common cause. The States (in Congress) declared it so, at the beginning; and pledged themselves to stand by each other. If then, some States were harder pressed than others, or, from particular and local circumstances, contracted heavier debts; it is but reasonable, when this fact is clearly ascertained, though it is a sentiment which I have not communicated here, that an allowance ought to be made to them. Had the invaded and hard-pressed States believed the case would have been otherwise, opposition would have very soon, I believe, have changed to submission, in them, and given a different termination to the war." *

As to Slavery, Washington was cautious, and sincere. He doubted the policy of arming the slaves, lest the enemy should do the same. "Besides," he wrote, "I am not clear, that a discrimination" ('giving them,' as Hamilton had proposed, 'their freedom with their swords') "will not render slavery more irksome to those who remain in it." †

At the close of the war, he also wrote to Lafayette, "I shall be happy to join you in so laudable a work," as "the emancipation of the black people of this country." ‡ "I despair of seeing it," he wrote him, three years later. "Some petitions were presented to the Assembly, at its last session, for the abolition of slavery, but they could

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* Washington's Writings, x. 98. † Ibid., vi. 204.
‡ Ibid., viii. 414.

their presses; and, finally, when suspicion had thus been engendered, by those followers—not publicly by themselves—openly and loudly proclaimed.

Were the people of the United States inclined to a monarchy? Their history has shown the difficulty of establishing the imperfectly checked system, that had been adopted. Before all the delegates to the Federal Convention had been appointed, Madison wrote to Washington: "I am inclined to hope, that their views will gradually be concentred in the plan of a thorough reformation of the existing system. Those, who may lean towards a Monarchical government, and who, I suspect, are swayed by very indigested ideas, will, of course, abandon an *unattainable object*, whenever a prospect opens of rendering the Republican form competent to its purposes. Those who remain attached to the latter, must soon perceive, that it cannot be preserved at all, under any modification which does not redress the ills experienced from our present establishments."

"In America," Jefferson formally states, "no other distinction between man and man had ever been known, but that of persons in office, exercising powers by authority of the laws; and private individuals; among these last, the poorest laborer stood on equal ground with the wealthiest millionary, and generally on a more favored one, whenever their rights seemed to jar. It has been seen, that a shoemaker, or other artisan, removed by the voice of his country from his work-bench into a chair of office, has instantly commanded all the respect and obedience which the laws ascribe to his office. But, of distinction by birth or badge, they had no more idea than they had of the mode of existence in the moon or planets. They

against future heresies, preached now, to be practised hereafter."—Jefferson to Jones, March 13, 1791.

had heard only, that there were such, and knew, that they must be wrong." *

When, three years later, he wrote to Madison, that the persons in America who would establish a monarchy, "are inconsiderable in number and weight of character," he adds: "The rising race are all Republicans. * * Our young people are educated in Republicanism. An apostasy from that to royalism is unprecedented and *impossible.*" "The new Government," he writes soon after, "would be supported by very cordial and very general dispositions in its favor, from the people."

Was it among a people of such fixed opinions, and, in such a temper, that the idea would be entertained—much less, the attempt be made—to introduce a monarchy? If entertained and attempted, would it not have been attempted, when the dissolution of their political institutions seemed at hand—at a period of universal alarm and distress? Would the remedy have been provided—intended to prevent the success of such an attempt by the establishment of a Republican Government—with all the balances, and checks, and guards of the National Constitution, by those charged with entertaining monarchical designs? Would the time of executing it have been deferred until public confidence, prosperity, safety, were all restored—thus, rendering the success of the attempt impossible?

By whom was a monarchy to be established? By the Representatives of New England—the most democratic, most equal, most intelligent, and most jealous communities in the world—the zealous supporters of Washington and of Hamilton? By New York, a reluctant member of the Union? By the officers and men composing the army of the Revolution? These had been, with a few poor exceptions, most active and influential in establishing the

* Jefferson's Works, i. 420, 1786.

Constitution—the officers holding places under it of honor and of trust—the men, not mercenaries gathered by a recruiting drum—but farmers and farmers' sons, looking to the plough and the sickle with fondest memories and fondest hopes. Who was to be the leader? Who the monarch? Was Washington, master, in his own patriotic integrity of character, of an Empire that cannot be subverted—was he so little sagacious, as not to have detected and thwarted the first advance towards such an object? Would he, had Hamilton avowed in the Convention—in *his presence*—a preference for a monarchy to be established in the United States, would he have preferred him to a seat in his Cabinet? * Would he have retained him there? Would he have regretted his departure, and have desired his return? Would he have continued, and enlarged, and fixed his undying confidence in Hamilton, and in his supporters, had he believed in such a project? Would Hamilton, with such views, have been the man, in the Federal Convention, to have *proposed*, as has been seen, to render the President *ineligible* after a *second term of four years?* †

With such improbabilities, and these are but a few of them, would Jefferson, it may be asked, have made, without some color, so groundless a charge? He did not make this charge *public*, until long after Hamilton had retired from the Government; and, after he had attained his own, contrived, preferment.

His line of policy is explained by his conduct in France, where clamor and intrigue, in which he was a participant,

* Infra, iii. 322. *After* Hamilton's avowed opinions, Washington wrote him, "The men who oppose *a strong and energetic* government, are, in my opinion, narrow-minded politicians. * * * *I am sorry you went away. I wish you were back.*"

† Ante, vol. iii. 347, note at end of Chapter.

had precipitated the downfall of its Government. Jefferson was a practical theorist. His theory was the general credulity of mankind—upon this credulity, his life was the successful practice.

The inquiry may also be raised, why credence was ever given to such an imputation upon Hamilton? The solution is not difficult. His abstract opinions, when discussing theories of Government in the Federal Convention, were tortured and misrepresented, by a disingenuous, jealous competitor; and his position before the nation was precisely such, as would render him an object of disquietude among a people, indisposed to an efficient Government.

From the very birth of the colonies, jealousy of power had been the dominant thought of the American mind.

Of this fact, the Colonial history is pregnant with evidence. This feeling produced the Revolution. This feeling prolonged its struggles. This feeling postponed the completion of the Confederation. This feeling prevented its invigoration. This feeling produced the compromises of the Constitution. This feeling delayed and almost prevented its establishment. The majority of the American people were against it. Its founders were in a minority. Its supporters were the conservative party, clashing with the masses. Of this party, while Washington was the head, avowing himself a FEDERALIST, Hamilton was the exponent, both of its theory and of its practice. Its theory he chiefly had pleaded in the Federalist. And, as to its practice: was commerce to be protected and extended—his was the great office. Was Revenue from Imports to be collected—with him the system had originated, and, his, was the duty to enforce the collection. Were internal taxes levied—he it was, who projected them, was vindicating them, and was govern-

ing the levy. Was money for the whole Union to be created—he proposed and organized the Mint. Was a National, circulating paper medium introduced—he planned and organized the National Bank. Was American industry to be stimulated, and encouraged, and protected—he was the author of the Report on Manufactures, and of the laws to carry that Report into effect. Was the Public credit restored—he was its pioneer, its advocate, its systematizer, its assertor, its defender. Was an even-handed justice ministered to the public creditors—his was the high function. Was a National construction and exertion of all the great powers of the National Government necessary to the accomplishment of all these great objects—on him they devolved. Thus it was, that the comprehensive, various, all-pervading energy, and genius, and instrumentality of Hamilton were seen in formidable conflict and contrast with all that was narrow, and weak, and local, in the previous institutions of the country, and in the formed prejudices of the people. The source and instrument of so much good, must be to these, an object of calumny, and the mark of envy.

NOTE.

The correspondence given in the second note, at the end of the previous volume, was transcribed from the originals in the State department. It contains all the letters that were found. Carefully perused, it will be seen full of meaning.

It is there stated, by J. Q. Adams, that "the volume containing the Journal of the Convention is *incomplete*. The second closes with the proceedings of Friday, 14th September, 1787. *Those of Saturday, the 15th*, and of Monday, the 17th, the day of final adjournment, are not entered in the book, which, if published in its present condition, will be a *fragment*. * * * The *chasm is remarkable*, as the adjournment on the 14th, leaves a debate unfinished, and to be resumed. There was *even a part* of the proceedings of *Saturday*, the 15th, which is *crossed out*, upon the book."

In a subsequent letter, Adams states to Madison—"from the list of yeas and nays, of which I now take the liberty to enclose to you, *it is apparent that*

many very important amendments were *proposed*, some of which were adopted, and others *rejected*, upon questions taken by ayes and nays in the process of preparing the revised draught for signature."

So important was it deemed to supply this deficiency, that General Jackson, being President, ordered the Secretary of State, to apply to Major Jackson, the Secretary of the Convention, to supply it. He answered that he could not. By recurring to the rules adopted by the Convention, on the 28th of May, previous to the commencement of its discussions, it will be seen, that one of these rules provided, as is usual in all deliberative bodies, and was of essential importance in this instance, as reference to its prior action in each stage of every question would be indispensable in its progress, that "immediately after the President shall have taken the chair, and the members their seats, the *minutes of the preceding* day shall be read by the Secretary."

This rule was not rescinded nor modified; and, it appears from the Journal up to the 15th of September, was strictly observed—nor is it consistent with the *prudence* of the President of the Convention (Washington) and his habitual observance of *method* and *order*, as well as with that of many other experienced and cautious members of that body, to suppose, that this rule was ever disregarded. The statement of Mr. Adams shows, "that there was even part of the proceedings of Saturday (the 15th), which *is crossed out*, upon the book."

When and by whom these mutilations or obliterations were made, it is not possible to state. The Journal was confided by the Convention to Washington's charge, and there it remained until the 19th of March, 1796, when he deposited it, with other papers of the Convention, with the Secretary of State, Col. Pickering. John Marshall succeeded Pickering. Not only, from a consideration of the characters of these just, true men, but because it would have been in opposition to their opinions, policy, and interests, it is certain, that the mutilations or defacements could not have been made by them. Madison succeeded Marshall, and then the Journal and papers of the Convention came into his charge.

"It is apparent," Adams writes to Madison, "that many *very important amendments were proposed*, some of which were adopted, others *rejected*." Madison, in reply, does not express any surprise, nor attempt to explain the condition of the Journal, but sends *his* version of the defective parts.

Jefferson explicitly and *formally* and *minutely* states (Jefferson's Works, i. 65), that the opinion of the House, as to the ineligibility of the President a second time, was "changed to the present form by *final* vote, on the *last day, but one* only, of their Session. Of this change, *three* States expressed their disapprobation; *New York*, by recommending an amendment, that the President should not be eligible a *third time*, and *Virginia* and *North Carolina*, that he should not be capable of serving more than eight, in any term of sixteen years."

From this very minute and precise statement, it is obvious, that Jefferson must have had recourse to the Journal. But, it was not out of Washington's charge, until 1796, two years after Jefferson had left the State department. His recourse to it must therefore have been had after that time, most probably, after March 4, 1801, Jefferson then President—Madison, Secretary of State. When he referred to it, his statement proves, that it contained this matter, which it did *not* contain, when compiled by Adams.

This "very important amendment recommended by New York" (Hamilton its only delegate present) was proposed on the *day* (September 15th) the proceedings of which are "crossed out." It, obviously, is too decisive a refutation of the charge against him of monarchical designs, to have been "crossed out," by any one of his friends or supporters! In another view the precise statement of Jefferson is to be regarded. The fact stated by him, that it was "recommended and voted upon formally, and the omission of Madison to mention it in his "Report of Debates in the Federal Convention," confirms the well-founded distrust of the fidelity of that Report. The Journals evidently came into his hands undefaced. Had they continued so, his "Report," in the "introduction" to which, he refers to them, could not have omitted the defaced parts.

Note to Page 455.

The expedient suggested by Jefferson is to be seen in a letter from him to Jared Sparks, of February 4, 1824. Jeff. Works, iv. 388. He approves the colonies on the coast of Africa. 2. Suggests the purchase, with the proceeds of the public lands of the United States, of "the new-born infant" slaves (unless their value was yielded up *gratis* by their owners, which he thinks *probable*), and the providing for their maintenance "until a proper age for deportation," and their transportation to St. Domingo. He admits, that this expedient "involves some constitutional scruples. But a *liberal construction*," he says, "justified by the object, may go far, and an *amendment* of the Constitution the whole length necessary." Any amendment of it must be *proposed* by *two-thirds* of both Houses, and must be ratified by *three-fourths* of the States. "The separation," he adds, "of *infants from their mothers*, too, would produce some scruples of humanity. But this would be straining at a gnat, and swallowing a camel."

CHAPTER LXXIII.

INCIDENTS had occurred during the first Session of the first Congress, keenly to offend a man of Madison's temperament.

In his attempt to direct the foreign policy of the United States he had been foiled, after strenuous and repeated efforts, by the firmness of the Senate. How sore this defeat must have been, may be judged, by recurring to his course in the Congress of the Confederation.*

His effort to limit the duration of the acts raising a revenue, though at first successful in relation to the impost, had failed, under circumstances of a nature to wound his pride.

His exertions on the "Residence" question impaired the confidence of those who looked beyond local to great general interests.

In the debates on the organization of the Government, he had taken the side unpopular in Virginia; and, in respect to the proposed amendments of the Constitution, his course had confirmed the hostility of his opponents in that State.

* Ames to Minot:—"The people of Virginia (whose murmurs, if louder than a whisper, make Mr. Madison's heart quake) are said to be very strenuous for a law to restrict the British trade." * * * "Is it not more prudent to maintain a good understanding with Great Britain, and to preserve a dignified neutrality, and moderation of conduct towards all nations?

Her dissatisfaction was communicated to Congress in a memorial from her Assembly, presented to the House of Representatives on the fifth of May, seventeen hundred and eighty-nine, four days after the President's inaugural speech, asking the call of a second General Convention. A similar application from New York was laid before them, on the following day.

It has been seen, that the Conventions of each of these States, had recommended amendments to the Constitution.

In fulfilment of his pledge, given to his immediate constituents, Madison framed a series of amendments, which, though they embraced some of the views of Virginia, were, in fact, of small moment; and, in part, sufficiently provided for in the Constitution.*

They were offered, and understood at the time to be offered, merely in formal compliance with his engagement, and as "a panacea for the ill-humor of that State." To conciliate the discontented, two-thirds of both Houses concurred in proposing them to the States. But a vigorous opposition was made in the Senate, by the senators from Virginia, who urged, in lieu of them, several amendments recommended by that commonwealth.

Failing in this, they addressed a letter to its Legislature, reciting their efforts to induce "radical amendments," declaring, that it was "impossible not to see the necessary tendency to consolidated empire in the natural operation of the Constitution, if no further amended, than is proposed."

* "We have had the amendments upon the *tapis*, and referred them to a committee of one from each State. I hope much debate will be avoided by this mode; and, that the amendments will be more rational and less *ad populum* than Madison's. It is necessary to conciliate, and I would have amendments; but they should not be trash, such as would dishonor the Constitution, without pleasing its enemies."—Ames, i. 65.

This subject was brought before the General Assembly of Virginia at its next session; and resolutions were passed rejecting the third—eighth—eleventh and twelfth of the amendments proposed by Madison. As to the third, they declared, that, though analogous to some of those proposed by Virginia, it did not prohibit the rights of conscience from being violated or infringed; and, that the Journals of Congress showed, that they refused to allow any amendment declaratory of the right to instruct; that, it was "dangerous and fallacious;" that the eighth, failed in the object they desired, leaving to Congress its existing powers; that the eleventh, which was intended to guard against the extension of power "by implication," was greatly defective. And, as to the amendment, which declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, *or to the people;* that, by the terms, or to the people, it is not declared, to the people of the respective States; but the expression applies to the people generally as citizens of the United States; and leaves it doubtful what powers are reserved to the State Legislatures. Unrestrained by the Constitution or by these amendments, Congress might assume those powers which properly belong to the respective States, and thus gradually effect an entire revolution." They urged "their countrymen not to be put off with amendments so inadequate," and rejected them.

Strong dissatisfaction had also been manifested with the official language of the President. Near the close of the first session of Congress, a resolution was passed directing him to recommend a day of thanksgiving to the people of the United States. The Proclamation,* among

* Dated October 3, 1789.

the causes of gratitude, spoke of the "National Constitution," lately instituted, and was addressed to the people of the United States. This was sharply censured. It was declared, "that the Proclamation ought to have been addressed by the President to the Executives of the States, recommending them to appoint a day for the people to assemble." In conformity with this suggestion, and with usage, Samuel Adams issued his proclamation appointing a day of thanksgiving, addressed to the people of Massachusetts.

These evidences of discontent produced in Madison a conviction that the Antifederalists must prevail.

On his return to Virginia, at the end of the first session of Congress, he saw his position. Other men had been preferred to the highest stations in the general government,—the influence of his State was arrayed against him. The opposition to his Federal opinions was not soothed, but confirmed, and exasperated; Monroe, his recent competitor for a seat in the House of Representatives, was chosen to fill a vacancy in the Senate.

In the temper of mind produced by these events, Jefferson found Madison on his arrival in the United States. He landed in Virginia during the session of the Assembly which rejected the proposed amendments to the Constitution; and was welcomed by an address from that body, of which the power was in the hands of its opponents.

His attitude, while abroad, in reference to the Constitution, had been taken in respect to this state of things. He is seen, in his correspondence, to have been watching all its various chances, first condemning, then approving it, as those chances fell, or rose. At the time, Virginia was looking to an uniform system of taxation among the States in their commercial intercourse and regulations,

Jefferson wrote from Paris, "the politics of Europe render it indispensably necessary, that with respect to every thing external, we be one nation firmly hooped together." * Adverting to the consequent meeting at Annapolis, he writes,† "I find by the public papers, that your commercial convention *failed in point of representation.* If it should produce a fuller meeting in May, and a broader reformation, it will still be well. To make us one nation as to foreign concerns, and keep us *distinct* in domestic ones, gives the outline of the proper division of powers, between the general and particular governments." He would then have organized the Federal head into "legislative, executive and judiciary." "The commercial Convention at Annapolis," he again wrote, "was not full enough to do business. They found, too, their appointments too narrow, being confined to the article of commerce." This is seen to have been the truth. But, when prefacing his Anas,‡ near the close of his life, he states, "Although at this meeting," (at Annapolis) "a difference of opinion was evident on the question of a republican or kingly government, yet so general, through the States, was the sentiment in favor of the former, that the *friends of the latter* confined themselves to a *course of obstruction* only, and delay, to every thing proposed. They hoped, that nothing being done, and all things going from bad to worse, a kingly government might be usurped, and submitted to by the people, as better than anarchy, and wars internal and external." By whom was the obstruction? By whom the delay? The previous narrative wholly disproves this statement, professed by him to have been made, on the information of members of the Convention.

* May, 1786. † December 16, 1786.

‡ February 4th, 1818.

"I confess," he writes to Adams,* then in London, in respect to the Constitution, nearly two months after the Convention at Philadelphia had risen, "there are things in it, which stagger all my dispositions to subscribe to what such an assembly has proposed. The House of Federal Representatives will not be adequate to the management of affairs, either foreign or federal. Their President seems a bad edition of a Polish king. * * * I think all the good of this new Constitution might have been couched in three or four new articles, to be added to the good old venerable fabric, which should have been preserved, even as a glorious relique." "There are very good articles in it, and very bad. I do not know which preponderate." "They are setting up a kite to keep the hen-yard in order."†

Under "the presumption,‡ that Virginia would reject it," he was pleased with the prospect of a second Convention.

When the adoption of the Constitution became probable, he applauded it, as an instrument§ containing "a great deal of good." "The CONSOLIDATION of our Government; a just representation; an administration of some *permanence*, and other features of great value will be gained by it." He had urged, it is seen, a delay in its adoption, to secure a second Convention. Its adoption being ascertained, he writes to Madison,‖ "I sincerely rejoice at the acceptance of our new Constitution, by nine States." He wishes a "bill of rights." "The abandoning the principle of necessary rotation in the Senate, has, I

* Jefferson to Adams, Jefferson's Works, ii. 266; Nov. 13, 1787.

† Ibid., 268; Dec. 11, 1787.

‡ Ibid., 270; Dec. 11, 1787; Dec. 12, 1787—to Carmichael.

§ Ibid., 310; May 17, 1788—to De Moustier.

‖ Ibid., ii. 343; July 31, 1788.

see, been disapproved by many; in the case of the President, by none. I readily, therefore, suppose my opinion wrong, when opposed by the majority, as in the former instance, and by the totality, as in the latter." Abandoning his former position, he wrote afterward to Madison, "I should *deprecate* with you, indeed, the meeting of a new Convention.*

Confidently claimed by its adversaries, yet not wholly distrusted by its friends, he was turning on a pivot, presenting to either party an approving countenance. "As to the new Constitution, I find myself nearly a neutral."† "I am neither a Federalist nor Anti-federalist. I am of neither party, nor yet a trimmer between parties." "I am not of the party of the Federalists, but I am much farther from the Anti-federalists,"‡ were his own confessions, to prove, that on this great question of a NATIONAL GOVERNMENT, he held himself in abeyance.

Yet, at heart, he was opposed to it. While Hamilton was contending most ardently that the Government should be founded on the power of the people; should act by their representatives, and be amenable to them; and, when the Constitution was adopted, triumphantly declared, "the whole power of the Government is in the hands of the people," Jefferson coldly assented to this principle. "I like," he writes,§ "the power given to the Legislature to levy taxes; *and for that reason, solely,* I approve of the greater House being chosen by the people directly. For, though I think a House, so chosen, will be very far inferior to the present Congress, will be very illy qualified to legislate for the Union, for foreign nations, etc.; yet, *this evil* does not weigh against the good of preserving invio-

* Jefferson's Works, ii. 382; Nov. 18, 1788.

† Ibid., ii. 438; March 13, 1789—to F. Hopkinson.

‡ Jefferson, ii. 278, 440. § Ibid., ii. 273–7.

late the fundamental principle, that the people are not to be taxed, but by representatives chosen immediately by themselves." "I like the negative given to the Executive, conjointly with a third of either House; though, I should have liked it better, had the judiciary been associated for that purpose, or invested, separately, with a similar power." "I own, I am not a friend to a very energetic Government. It is always oppressive." "One rebellion in thirteen States, in the course of eleven years, is but one for each State in a century and a half. No country should be so long without one." "I think it would be well to provide in our Constitutions, that there shall always be a twelvemonth between the engrossing a bill and passing it; that, it should then be offered to its passage, without changing a word; and, if circumstances should be thought to require a speedier passage, it should take two-thirds of both Houses, instead of a bare majority."

Jefferson, as seen, took his seat in the Cabinet—indebted for it to the influence of Madison with Washington—late in March, seventeen hundred and ninety. The Assumption of the State debts had been carried in the House of Representatives, on the ninth of that month. It was recommitted on the twenty-ninth of March—a few days after he had entered office; was subsequently opposed with great violence; was defeated; and, as has appeared, only finally passed by a change in the votes of two members from Virginia, who had previously voted against it.

The agitation and discontent to which this debate gave rise, manifested the facility of raising a formidable opposition to Hamilton; and offered an opportunity of gratifying the prejudices and interests of Virginia. The assumption of the State debts, and with it, the fiscal system,

might have been defeated, had not this been selected as a favorable occasion, by sacrificing her prejudices, to gratify her pride.

The zeal of Madison for the establishment of the Capital of the United States on the banks of the Potomac, has been shown in his correspondence with Washington. During the first session of Congress, a bill relating to the permanent seat of Government was much debated.

On this occasion, Madison took the lead. After adducing various reasons in favor of "this central position," he became so much excited by the opposition to this favorite measure, as to declare his belief, that if "a prophet had started up in her Convention, and foretold the proceedings of this day, Virginia would not now be a party to the Constitution." He was replied to by Ames, who, after insisting, that the centre of a sea-coast line was that to be regarded, because more accessible, the seat of greater wealth, and of a more numerous population to protect it, glanced with an almost prophetic eye at the danger the Capital would incur from invasion, if placed on the Potomac. "We are caballing," Ames wrote,* "about the permanent residence of Congress. The Pennsylvanians have made, or are about making, a compact with the Southern people, to fix it on the Potomac. They can carry this in the House, if they think fit, and all unite from Pennsylvania, southward. The Pennsylvanians abhor this in their hearts, but the terms are to remove the temporary residence of Congress to Philadelphia; and as the members, east of the head of the Chesapeake, outnumber the others, they are pretty sure of preventing the future removal to the Potomac. * * * The business is *in nubibus*, and in such dark intrigues, the

* Ames i. 69, 71.

real designs of members are nearly impenetrable. Reasoning will do no good."

After much discussion, a Residence bill passed the House, but was rejected by the Senate. One clause provided, that New York be the temporary residence. This clause Madison objected to, as *unconstitutional;* as "depriving the two Houses of a right expressly vested in them by the Constitution, of adjourning, without the consent of the Supreme Executive."

During the succeeding session, as has been seen, while the question of the Assumption was agitated, the place of residence was considered. After rejecting several propositions from the other House, a bill was finally passed through the Senate, the Vice-President frequently giving the casting vote, which established the temporary seat of Government at Philadelphia, until the year eighteen hundred, and the permanent residence on the Potomac.

When considered by the House, Madison declared, "that not a word of it should be altered; that it must not go back to the Senate;" and, after this declaration, the bill passed by a majority of three votes.

It provided, that the next *session* of Congress should be at Philadelphia. Though Madison had objected to the Act of the previous session, as unconstitutional, being an invasion of the absolute right of Congress to adjourn when and whither they pleased, he now contended, that this Act was *not* unconstitutional; assigning as his reason for this opinion, that his objection, in the first instance, had been overruled by a majority of the House. The *principle in both acts was the same.*

A few days after, the clause authorizing an Assumption of the State debts, passed by a similar division.

The majority on the former question, was produced by the votes of certain members from Pennsylvania; that

on the latter, by those of two members from Virginia, who represented districts on the Potomac; and who, in all the previous divisions on this question, had voted against the Assumption!

So anxious was Jefferson, the seat of government should be established in Virginia, that he addressed an official opinion to the President, prompted by a *publication in a gazette*, to prove, "that the Houses may, by a joint resolution, remove themselves from place to place, because it is a part of their self-government; but that, as the right of self government does not comprehend the government of others, the two houses cannot, by a joint resolution of their majorities, only, remove the executive and judiciary from place to place. These branches, possessing also the rights of self-government *from nature*, cannot be controlled in the exercise of them, but by a law passed in the form of the Constitution." He nevertheless advised the President's assent to the resolutions, as that assent would make "good law of the part relative to the Potomac." *

This decision was openly stigmatized in the House of Representatives, "as the result of an arrangement between Virginia and Pennsylvania." "It is," said Gerry, "a mere manœuvre." The members from Massachusetts, New York, and South Carolina, who were in Hamilton's personal confidence, persevered in their opposition to it to the last.†

* Jefferson's Works, Cong. Ed., vii. 490. July 15, 1790.

† Ames, Benson, Boudinot, Goodhue, Lawrence, Sedgwick, Smith, of S. C., Wadsworth.—Journal, i. 267. Ames wrote, i. 71, "The *Eastern* members had agreed that it was best to postpone the question of the permanent seat of government, and we had no doubt of being able to do it. We were deceived. All *South of the Delaware* had agreed to make Philadelphia the temporary residence, and the Potomac the permanent seat. To *break this intrigue* was then our and *New York's* object. We decided for the Susquehanna." Again Ames wrote: "If we succeed in the ASSUMPTION, *we* shall have nothing of

Jefferson had given early evidence of his solicitude as to the seat of Government;* and, it appears from his own statement, was the instrument to induce this change in the vote of Virginia.

Madison now attained the objects he had been seeking. He gratified his jealousy of the reputation Hamilton had derived from the funding system; and, instead of being regarded as a recreant from his State, gained great popularity there, by his opposition to the Assumption, and by the success of the Residence bill.

Although these measures were carried by the direct influence of Virginia, acting through Jefferson and Madison, it was their policy still to decry the fiscal system. Madison was selected as the channel to convey the discontents of that State to Congress. Her general Assembly, having met a few months after the enactment of the laws to provide for the debt, took these laws into consideration. They declared, that so much of the act

bargain to reproach *ourselves* with. I confess, my dear friend, with shame, that the world ought to despise our public conduct, when it hears intrigue openly avowed; and sees that great measures are made to depend, not upon reason, but upon bargains for little ones. This being clear, I should have supposed myself warranted to make a defensive or counter bargain to prevent the success of the other. But even that would wear an ill aspect, and be disliked by the world. I repeat it, therefore, with pleasure, that we have kept clear of it."—Ames, i. 34. Ibid., 84. "R. Morris is really too warm for the Assumption, and as he is the *factotum* in the business, he will not fail to insist upon the original friends of it, and who have ever been a majority, voting for it. With five Pennsylvanians, our former aid from that delegation, we can carry it, or at least four-fifths of the debts to be assumed. Accordingly, they begin to say, these violent feuds must be composed; too much is hazarded to break up in this temper. Maryland is the most alarmed, as well as, next to Virginia, most anxious for the Potomac."

* "It is evident," he wrote to Monroe in 1785, "that when a sufficient number of the Western States come in, they will remove it to Georgetown. In the mean time, it is our interest, that it should remain where it is, and give no new pretensions to any other place."—Jefferson's Works, i. 235.

"making provision for the debt," as limits the right of the United States, in their redemption of it, was "dangerous to the rights, subversive of the interests of the people; and demanded the marked disapprobation of the General Assembly." They denounced the Assumption as "repugnant to the Constitution of the United States, giving to it, the exercise of a power not granted to the General government;" "as a measure particularly injurious to the interests of Virginia;" "as an act impolitic, unjust, odious and deformed;" one which, "republican policy could scarcely have suggested; as intended to concentrate and perpetuate a large moneyed interest, which would produce a prostration of agriculture at the feet of commerce, or a change in the present form of the Federal government, fatal to the existence of American Liberty."

This proceeding was looked upon with well-grounded alarm by the friends of the Constitution. "We shall soon, whenever this comes into general practice," a disguished patriot wrote to Hamilton, "be without a Federal government; and with its fall, we shall probably be deprived, for ages to come, of the power of again assembling and forming a system for the general government of the United States, by the voice of the people." *

"This is the first symptom of a spirit," was the language of Hamilton to the Chief Justice, "which must either be killed, or will kill the Constitution of the United States. I send the resolutions to you, that it may be considered what ought to be done. Ought not the collective weight of the different parts of the government to be employed in exploding the principles they contain? This question arises out of sudden and undigested thought."

* General Lincoln to Hamilton.—Hamilton's Works, v. 460.

These Resolutions were presented to the House of Representatives by Madison, on the fourteenth of January, seventeen hundred and ninety-one; and, subsequently, in pursuance of the express request of Virginia, by the President; an unworthy artifice thereby to gain his apparent sanction to their opposition to a measure, he had both privately and officially approved.

The discontents on this subject were not confined to that State. The nucleus of a party, to pervade the Union, had been formed; and its influence was seen in the proceedings of other legislatures.

In Maryland, a resolution, that the Assumption was dangerous to the State governments was defeated only by the vote of the Speaker of the House. North Carolina stigmatized it, with great violence, and instructed her senators to urge the reduction of the monstrous salaries of the Federal officers, and to vote against any act levying an Excise, or direct tax. Her judges, subsequently, refused to make a return to a writ from the District Court of the United States; and, she denied the use of her prisons to convicts under the laws of the nation. Georgia also evinced her dissatisfaction, though as to other subjects.

Thus, the commencement of this Government presented an extraordinary scene—Massachusetts, New Hampshire, Rhode Island, and South Carolina, on the one hand, pressing their claims for justice upon the General government; while Virginia, North Carolina, and Georgia denounced the provision for those claims, as pregnant with dangers to their liberties. The Northern States meanwhile clamoring against high salaries and pensions; the Southern, denouncing the Quakers, and deprecating the abolition of slavery.

The Report on Public Credit proposed to derive the

revenue to discharge the interest upon the continental debt from the existing duties on imports, and tonnage, and from additional duties to be imposed upon wines, spirits, (including those distilled within the United States,) teas, and coffee.

The bill framed by Hamilton, for raising a revenue from distilled spirits, it has been seen, was considered before the Funding bill had passed both Houses. The revenue from imports having been granted to the General government, the advocates of the Assumption, unwilling to deprive the States of the resource of an excise, while they remained charged with a debt which properly was a debt of the Union; rejected this bill.

As a mode of discharging the public burthens, without imposing on commerce duties, which, in its infancy, might be prejudicial, Hamilton renewed his proposition at the third session of Congress for a duty on domestic, distilled spirits. A concerted clamor was raised. The greatest violence was manifested in Georgia, the Carolinas, Virginia,* and Pennsylvania.

In the latter State, a petition to Congress against the bill was widely circulated; and soon after, the subject was brought before its Legislature. There, the most active and conspicuous opponents to the system of internal revenue were—William Findley, who is seen to have signalized himself in his hostility to the Constitution, and Alphonso Albert Gallatin, a young Swiss, who having sojourned for a time in Massachusetts and Virginia, alighted near the Western limits of Pennsylvania, where he began his marked career.

* "The Southern people," Ames wrote, "t care little about the debt. They doubt the necessity of more revenue. They fear the excise themselves, and still more their people, to whom it is obnoxious; and to whom they are making it more odious still, by the indiscreet violence of their debates."

In the debate upon Resolutions by that body (following the recent example of Virginia) to instruct her Senators to oppose the Excise, which were adopted; the mode of preventing the execution of this law was indicated by Findley. He remarked, "Excise men can be held in disgrace; they may be refused the countenance and comforts of society; they may be refused lodging and refreshment; and think themselves happy in escaping from their districts, without the penalty of any law being incurred;" suggestions which were soon after minutely followed.

The opposition in Congress now changed their ground. They first voted for the Excise, in the hope, that, if it passed, it would defeat the Assumption. The Assumption having been authorized, this motive no longer existed. The original Excise bill contained clauses which, from a regard to personal liberty, Hamilton afterwards expunged—yet they supported it! They now sanctioned the violence which their leaders had excited; denounced the amended law as inconsistent with popular rights; and proposed, as substitutes, taxes on newspapers, on internal navigation, a stamp act!

It has been seen, that the plan of a National Bank, was announced to the House of Representatives, in the Report on Public Credit, published in January, seventeen hundred and ninety, as the medium of applying the money to be borrowed for the purpose of effecting the purchase and reduction of the debt. This plan was, therefore, before the public, from the beginning of the second meeting of Congress; yet, though it was occasionally alluded to, not an objection was made during the whole excited debate of that session, either as to its *constitutionality* or *expediency.*

In the public press, not a sentence appeared against

it, as an unconstitutional measure. Notwithstanding the zealous remonstrances of Virginia, against the Funding system, in which every topic in the Report on Public Credit, that could alarm or inflame the popular feeling, was reviewed; no allusion is made to the proposed Bank. Even there, its unconstitutionality seems not then to have been discovered. The industrial classes anticipated its establishment with delight; and the opposition to it was prompted by motives, having no relation to its constitutionality, or to its expediency, or to public opinion.

As the primary object in the institution of a National Bank, was connected with the redemption of the debt, the original plan of it contemplated a charter coexistent with the continuance of the existing debt, which, by the terms of the Funding act, would be discharged in thirty years.

The only question agitated in the Senate, related to the *duration* of the charter. This, it has been seen, it was in the first instance, proposed to limit to *seven* years. A vote was then given, in favor of its being extended to *eighteen hundred and fifteen*, to which a proviso was offered, that it might be amended after a notice of twelve months, from the first of January, *eighteen hundred*. This proviso was rejected; and the term of its existence was limited to twenty years.

The object of the proposed limitation of *seven* years was of deep interest to Virginia, and, on the third reading of the bill, a proposition was made to limit its duration to the year *eighteen hundred*. In favor of this proposal, were six votes, consisting of the Senators from Virginia, the Carolinas, and Georgia. This geographical vote had reference to the same question, upon which, it has been seen, the provision for the State debts was made to turn.

The strenuous exertions of Virginia to establish the

Federal city on the Potomac, excited a suspicion in Pennsylvania, that a design existed, among the Southern members, to violate the compact which had established the temporary residence at Philadelphia. On the other hand, the zeal evinced by Pennsylvania for the establishment of a National Bank for a term of twenty years, induced an apprehension in Virginia, that the desire to retain the seat of Government in the vicinity of so important an institution, might defer its transfer within her own borders. The extensive scale on which Pennsylvania proposed to provide for the accommodation of the officers of the Government, gave countenance to this apprehension; and she well knew the indignation of New England, at her recent policy in relation to the State debts.

The temporary residence in Philadelphia was limited by the Residence act, to the year *eighteen hundred;* and hence, the various efforts, made in the Senate, to give a similar limitation to the charter of the Bank.

Finding this impracticable, the expedient was resorted to, of authorizing its amendment, in the hope that thus the removal of the Bank to the Potomac might be made the condition of the renewal of its charter.

Before this bill was discussed in the House, a proposal was made to Pennsylvania, to accede to the desired limitation. Confident of a majority favorable to the Bank, that State was not disposed to yield. It was then declared by Virginia, in direct terms, "If the charter is limited to *ten* years, we shall consent to the law; but, if you obstinately persist in your refusal to admit so reasonable a proposition, we *shall be obliged* to come forward with very serious objections to the bill; we shall be compelled to show, that it is against the Constitution." * This threat was ineffectual.

* "The Politics and Views of a certain Party displayed, 1792."

Yet, hoping that some impression might be made upon that State; perhaps, unprepared to raise the objection of its unconstitutionality, which the proposed compromise waived, no opposition was made in the House of Representatives to the bill, until its third reading. It passed through its previous stages, with such an apparent acquiescence, as to have induced the belief, that the opposition of Virginia was a mere menace, not intended to be pursued.

It had been ascertained, that a large majority of the House were in favor of the bill; and that the only possible chance of defeating it, would be, by exciting doubts in the mind of the President, as to its constitutionality. This topic was suggested by Jackson, on the question of its final passage; and was pursued by Madison, with a zeal and a vehemence, he had not before exhibited.* The Act passed by a majority, only one less, than two-thirds of the whole number of Representatives; the twenty negatives, with one exception, being the votes of States anxious for a Southern Capital.

It was hoped, that the President's known solicitude for the establishment of the Seat of Government on the Potomac, to bear his name—would, under color of scruples as

* "We have been occupied a long time with the debate on the Bank bill. Mr. Madison has made a *potent* attack upon the bill as unconstitutional. The decision of the house, by a majority of 39 against 20, is a strong proof of the little impression that was made. Many of the minority laughed at the objection, deduced from the Constitution. The great point of difficulty was, the effect of the Bank Law to make the future removal of the Government from this city to the Potomac less probable. This place will become the great centre of the revenue and banking operations of the nation. So many interests will be centred here, that, it is feared, that ten years hence, Congress will be found fast anchored and immovable. This apprehension has an influence upon Mr. Madison, the Secretary of State, as it is supposed, and, perhaps, upon a still greater man. The Bank law is before the President."—Ames i., 95; Feb. 17, 1791.

to the Constitution, induce him to disapprove the Bank act. This expectation was disappointed—Washington rose above local, personal, or temporary considerations.

The supplementary Bank bill having passed, after an unsuccessful attempt to amend it so as to limit the charter to the year eighteen hundred and two, with the approbation of members who opposed the original bill, left no doubt in his mind of the insincerity of its opponents. He gave both the bills his deliberate sanction.

Thus, a question which has since divided the politics of this country, was the mere offspring of State ambition; and thus, is explained, the easy relinquishment of their objections, and the repeated approvals of a National bank, by its original opponents.

In his letter to Gouverneur Morris, Jefferson is seen, after the leading measures of finance, which he afterwards opposed, had been adopted, rejoicing in the "bright prospect" of the country. It should not escape notice, as tending to show, how much the discontents were stimulated by political artifice; that, when another session of Congress had terminated, and immediately after the passage of the Bank bill, he again bore testimony to the prosperity of the nation, and to its "general satisfaction."

Writing confidentially to a person in Europe, he observes;* "The term of the first Congress having expired on the third instant, they separated on that day, much important business being necessarily postponed. New elections have taken place for the most part, and very few changes made. This is one of *many* proofs, that the proceedings of the new Government have given general satisfaction. Some acts, indeed, have produced local discontents; but these can never be avoided." Another letter, written two months later,† proves, that this was not an

* March 17, 1791. † May 13, 1791.

immature opinion; and also shows, how entirely his alleged apprehensions of evils from the system which had been established, and of dangers from it to public liberty, were conjured up to excite, and to alarm popular prejudices; to shake confidence; and to excuse his ministrations to faction. "In general," he writes, "our affairs are proceeding in a train of unparalleled prosperity. This arises from the *real* improvements of our Government; from the unbounded confidence reposed in it by the people, their zeal to support it, and their conviction that a solid Union is the best rock of their safety; from the favorable seasons which, for some years past, have co-operated with a fertile soil and genial climate to increase the productions of agriculture; and from the growth of industry, economy and domestic manufactures. So, that I believe, I may say with truth, that there is not a NATION under the sun, enjoying more present prosperity, nor with more in prospect." *

Notwithstanding his Cabinet opinion, as to which, Hamilton, with a smile, observed, "he argued the Constitution out of a dictionary," that the incorporation of a National bank "sapped the foundations of the Constitution;" on the twenty-second of March, eighteen hundred and four, a bill was passed by a Democratic Congress, and received his signature, as President, establishing a Branch bank at New Orleans. If the original act was unconstitutional, this Act, enlarging the sphere of its operations, was not less so. Another Legislative recognition followed. In seventeen hundred and ninety eight, Jefferson pronounced the act passed "to punish frauds committed on the Bank of the United States, altogether void, and of no force; on the ground, that it assumed to create,

* Jeff. Works, iii. 92, 110.

define and punish crimes, other than those enumerated in the Constitution; a right solely and exclusively appertaining to the respective States within their own territories." Yet, in eighteen hundred and seven, a bill was signed by the same hand which penned this declaration, to punish, as capital offences, frauds committed on the bank. Thus did he sustain an institution he had pronounced unconstitutional; and sanction an act he had declared "void and of no effect;" by the utmost force of a new penal statute.

With these facts in view, it is not difficult to believe a statement of Gallatin, that Jefferson, while President, looking to a renewal of the charter of the bank, requested him, "so to manage it, that it might become a law, by the ten days' operation."

A war abundantly justified, but improvidently undertaken and feebly waged, brought with it, not only its defeats and successes, but its stern lessons of necessity. In the midst of that war, Jefferson bears this decided attestation to the value of a National bank. "I like well," he writes, "your idea of issuing Treasury notes, bearing interest; because I am persuaded, they would soon be withdrawn from circulation, and locked up in vaults and private hoards; * * * the other idea, of a National bank, I do not concur in, because it *seems* now decided, that Congress has not that power, ALTHOUGH I SINCERELY WISH, THEY HAD IT, EXCLUSIVELY."*

Madison, is seen to have sanctioned a bank chartered by Congress, urging their assent, by an intimation of the probable necessity, "of issuing notes of the Government as a common medium of circulation."

Nor was Monroe more inflexible. Having voted in

* Jefferson to Thomas Law, MS., "Nov. 6-13," 1813.

seventeen hundred and ninety-one, both against the original and supplementary bills; and, having sustained the succeeding charter, he wrote, "As to the Constitutional objection, it formed no serious obstacle. In voting against it, in the first instance, *I was governed essentially by policy.* The construction I gave to the Constitution, I considered a strict one. In the latter instance, it was more liberal, but, according to my judgment, justified by its powers." *

These attestations to Hamilton's views were given by a party, "severely schooled both by adversity and experience." They also have received the unanimous and frequent sanctions of the only † Constitutional Tribunal. Acting under the power which Hamilton had imparted to it, of expounding the Constitution, the Supreme Court of the United States, "deprecating the baneful influence of the narrow construction" of his adversaries, "on all the operations of the Government;" and declaring, "the absolute impracticability of maintaining it, without rendering the Government incompetent to its objects," adopted, in all its force and extent, his "opinion on the constitutionality of the Bank of the United States."

* James Monroe to Silas E. Burrows, Jan. 20, 1831.

† Madison placed his final act, on the ground, of "precedent superseding opinion;" and, while he would derive his justification from the decisions of the judiciary, contested its claim to be the "exclusive expositor of the constitutionality of laws," averring, the "co-ordinate authorities, legislative and executive, to be equally expositors within the scope of their functions."

NOTE.

That eminent lawyer—Horace Binney—in an exquisite sketch, entitled "The Leaders of the Old Bar of Philadelphia," states, in his notice of WILLIAM LEWIS, p. 26: "Its great principles were discussed between the two," (Hamilton and Lewis), "until all the reasons of the Secretary of the Treasury, and the answers to the objections of the Secretary of State, and of the Attorney General, were scrupulously examined and weighed. No lawyer could have

been better in such a consultation than Mr. Lewis, who was fertile in the suggestion of doubts, and quick in the solution of them, and had an admirable *coup d'œil* to discern the strong and weak points of assault and defence.

That argument of General Hamilton, it should be remembered, *first* enunciated the great rules of interpretation by which the powers delegated by the people of the United States to Congress were to be construed; and they were afterwards tested by the Supreme Tribunal of Federal law, and stood the test then, and for sixty years from the adoption of the Constitution. I hope to be excused for thinking that no juridical argument, before or since, has shaken, or ever will shake, those rules of interpretation; and that none other can maintain the constitutional relations of the States and the United States, the one to the other, and give superiority to each in its proper sphere." * * "If *State rights* mean any thing to the contrary of that argument, they mean that the United States shall not be administered by a fair construction of the Constitution, but by the *platforms* of party."

CHAPTER LXXIV.

The decision of Washington, as to the incorporation of the Bank; and thus, as to a great commanding principle in the construction of the powers of the National Government, increased Hamilton's importance with the nation; and stimulated the hostility of the Virginia Trio. It was to them a sore disappointment. The early preparation of the cabinet opinions, the character, tone and drift of those opinions, the assured hope of success, in the preparation by Madison of a veto of the Bank, the contrivance and the cunning used to precipitate the action of the President—all show their intense desire to foil this important measure.

Thus baffled in their expectation of swaying the mind of Washington, these ambitious aspirants the more resolved to interpose obstacles in Congress to every measure that emanated from Hamilton; looked sedulously for means to discredit his systems with the people—and further to extend and more deeply to fix the discontents they had artfully fostered.

Until the Cabinet discussion of the Bank bill, a social intercourse had been preserved between Hamilton and Jefferson. The conduct of Jefferson on that occasion, was so personally offensive, as to preclude its continuance; especially, after the intimations Hamilton had received of

the hostile purposes cherished towards him, confirmed by the remonstrances of Virginia against his Fiscal system. From that time, their relations were merely official; the notes which passed between them, being in the *third* person.

The Supplementary Bank bill passed the second of March, two days prior to the period of the dissolution of the first Congress. On the twenty-first of that month, the President departed from Philadelphia to Mount Vernon, escorted by Jefferson and Knox, who soon returned to the seat of Government. His absence was the time selected for carrying into effect the plans of the opposition; quickened into activity by an impression of Jefferson, that the President intended, "to retire from the Government" at the expiration of his term of office.*

Should he adhere to a purpose, seriously deprecated by the Federalists, Adams would be the prominent candidate for the Chief Magistracy. His votes on the several close divisions of the Senate, had defeated the designs of the Anti-federalists. He would naturally be supported by the friends of, and, it was supposed, would lend all the influence of office to sustain, the policy which had prevailed.

During his residence in Europe, Adams wrote a treatise on the American Constitutions, designed to show the importance to stable liberty, of a balanced Government. On his return to the United States, he caused to be republished a series of letters on American affairs, written immediately after his sudden departure from Paris to Amsterdam.

Their publication commenced with the opening of the

* Jefferson's Works, iv., 455, an impression founded on a letter to him from Washington, dated April 1, 1791: "The most superb edifices may be erected, and I shall wish their inhabitants much happiness; and *that too, very disinterestedly, as I shall never be of the number myself.*"

first Congress, and ended with the year seventeen hundred and eighty-nine. They embraced a view of the resources, political institutions, and character of the people of the United States, breathing throughout a fervent attachment to liberty.

His "Discourses on Davila" followed, and were continued through another year. They were supplementary to the former treatise, having in view the exhibition, by historical examples, of the dangers of an unbalanced Government, and the necessity of constitutional checks.

This mode of gaining reputation, was, at this time, regarded unfavorably. The discussions on the Constitution had wearied the public; and they were little disposed to enter into disquisitions having no definite object of immediate utility. These publications were also deemed inexpedient, as they offered the occasion for charging upon the author of them, that attachment to a distinction of ranks, which he really felt.* Nor could it escape suspicion, that they were intended to promote his pretensions to the Presidency.†

They were associated with the desire manifested by a majority of the Senate to confer titles upon the President and Vice-President, and with Adams' wish to impart to

* John Adams to Samuel Adams. New York, Oct. 18, 1790. MS.; "But, on the other hand, the Nobles have been essential parties in the preservation of Liberty, whenever and wherever it has existed. * * * Let us be impartial then, and speak the whole truth. Till we do, we shall never discover all the true principles that are necessary. The multitude, as well as the nobles, therefore, must have a check. This is one principle. * * * But to do justice between them, you must establish an arbitrator between them. This is another principle."

† "It was said that Mr. Adams walked the streets with his hat under his arm, wearing a sword." On this tale, "it was *believed* in Richmond in 1796, that Mr. Adams was always preceded by four men bearing drawn swords!"—Sullivan's Letters, p. 38.

the Presidency a "splendor and a majesty proportioned to the dignity of an office," which, "by its legal authority defined in the Constitution," he thought, "has no equal in the world,* excepting those only which are held by crowned heads."

Too sagacious not to see the advantage to which these essays might be turned, no comment was made upon them, by his opponents, until the series was completed.† At this time, a work of Thomas Paine, entitled, "THE RIGHTS OF MAN," was received in the United States. Jefferson, though he had before avowed himself unequivocally in favor of a balanced government, seized this occasion to gratify the author, his confidential correspondent, and to strike a blow at his unwary rival. He addressed a note to the publisher of this pamphlet, stating that, "he was glad to find, that it was to be reprinted; that something would at length be publicly said against the political heresies which had lately sprung up among us, and that he did not doubt our citizens would rally again, around the standard of COMMON SENSE." This note was so pointed, as evidently to indicate Adams, and was prefixed to the "Rights of Man."

This light procedure incurred reprehension, as being a volunteer attack by a member of the Cabinet upon the second officer of the nation—the head of the Senate.

Alarmed at the impression he feared it might make upon Washington, Jefferson addressed to him an apologetic letter, in which, repeating the charge against Adams

* Adams to Washington on Etiquette.—Washington's Writings, x. 468: "If the *state* and *pomp* essential to this great department are not preserved, it will be in vain for America to hope for consideration with foreign powers."

† Madison to Jefferson, in a letter of May 12, 1791, says of Adams, "Under a mock defence of the republican constitution of this country, he attacked them with all the force he possessed, and this, in a book with his name to it, whilst he was the representative of this country, at a foreign court."

of political heresy, imputing to him, "apostacy from republicanism to hereditary monarchy and nobility," he avows, that he had in view, the "Discourses on Davila;" but states, that the note was prefixed without his authority.* He also wrote to his "friend" Adams, "I was thunder-struck at seeing it come out at the head of the pamphlet. I hoped, however, it would not attract notice." †

Two circumstances will not escape observation: one, that this note was signed by him, as "Secretary of State;" the other, although he asserted that the book of Adams—"A Defence of the American Constitutions"—"*having made known his political bias*, he was taken up by the *Monarchical Federalists* in his absence," that he had previously declared to its author, he "thought it *formed to do a great deal of good.*" ‡ The "Discourses on Davila" and this "Defence" contained analogous opinions. These, "in truth," § Adams subsequently admitted, "were the cause of the immense unpopularity which fell like the tower of Siloam upon me." ‖

* May 8, 1791. The whole letter is given in Randall, ii. 2. An exculpation was also made to the President by Lear, one of Washington's Secretaries, regarded as a tool of Jefferson.

† To excuse himself to the Vice-President, he ascribed the publicity this notice obtained to a defence by "Publicola." Unluckily, the author of Publicola, which he did not suspect, was John Quincy Adams, a son of the Vice-President, who denied any knowledge of his son's being the author of this pamphlet.

‡ Dip. Correspondence, 2d series. Jefferson to Adams, iii. 306, Sept. 28, 1787. "I judge of it from the first volume, which I thought *formed to do a great deal of good.* The first principle of a good government is certainly a distribution of its powers into executive, judiciary, and legislative, and a subdivision of the latter into two or three branches. *It is a good step gained, when it is proved, that the English Constitution, acknowledged to be better than all which have preceded it*, is only better, in proportion, as it has approached nearer to this distribution of powers."

§ Adams' Works, x. 54.

‖ Referring to the exposure of himself, Jefferson writes to Thomas Paine,

The explanation forced from him by public opinion, made to Adams by Jefferson, contains this passage: "that you and I differ in our ideas of the best form of government, is well *known* to us both." * Adams forthwith replied: "You will give me leave to say, *I do not know this.* I know not what is your idea of the best form of government. You and I have *never* had a *serious* conversation together, that I can recollect, *concerning the nature of government.* The very transient hints that have ever passed between us, have been jocular, and superficial, without ever coming to an explanation. If you suppose, that I have, or ever had, a design or desire of attempting to introduce a government of King, Lords, and Commons; or, in other words, an hereditary Executive, or an hereditary Senate, either into the Government of the United States, or that of any individual State, you are wholly mistaken. * * If you have ever put such a construction on any thing of mine, I beg you would mention it to me, and I will undertake to convince you that it has no such meaning." † To this explicit call Jefferson

"The discussion excited the public attention, recalled it to the 'Defence of the American Constitutions,' and the 'Discourses on Davila,' which it had kindly passed over without censure in the moment, and very general expressions of their sense have now been drawn forth; and I thank God, that they appear firm in their republicanism, notwithstanding the contrary hopes and assertions of a sect here, high in name, but small in numbers. These had flattered themselves, that the silence of the people under the 'Defence' and 'Davila,' was a symptom of their conversion to the doctrine of king, lords and commons. They are checked at least by your pamphlet, and the people confirmed in their good old faith."—Randall, ii. 12.

* Jefferson to Adams, July 17, 1791.—Randall, ii. 4.

† Adams' Works, viii. 506, 509. July 29, 1791. Yet in Jefferson's Anas, vol. iv., p. 450, a "conversation" at *his own table* is retailed by him, in which Adams is related to have "observed," as to the British constitution, "Purge that constitution of its corruption, and give to its popular branch equality of representation; and it would be the most perfect constitution devised by the

made *no reply*. Justly incensed, the correspondence between them was not resumed by Adams until after twenty years had elapsed.

To a true patriot, the youthful mind of this nation would present itself as a sacred trust to be guarded, matured, and made robust in every quality of virtue. To others, it would be a thing prone to passion and to error, whose perverted weaknesses would prove a ready prey. The former would be a difficult, often an invidious task. Where its path was beset by so many dangers, delusions, and temptations, to make its facile inclinations all their own, would be of easy attainment.

wit of man." This conversation is expressly stated by Jefferson to have taken place in *April*, 1791. Its having occurred, is thus expressly contradicted by Adams, on the 29th of *July*, 1791; only three months after. No reply being given by Jefferson, its untruth is, in fact, admitted. In this table conversation, it is also stated, after Adams' alleged remark, "Hamilton paused, and said, 'Purge it of its corruption, and give to its popular branch equality of representation, and it would become an *impracticable* government; as it stands at present, with all its supposed defects, it is the most perfect government which ever existed.'" As the first clause of this alleged conversation is shown by Adams' letter not to have *occurred*—the sequent remark imputed to Hamilton, it may well be believed, was not made. But of the occurring of this, or of any other private conversation between Jefferson and Hamilton, after the cabinet discussions as to the Bank, the fact that their personal, other than their official intercourse, had ceased, is a decisive refutation. The whole is doubtless a fabrication. After this exposition, Randall's statement, that Jefferson "has not had one personal defender to every fifty personal assailants," cannot surprise. Few works exist in which the author ventures to adopt statements made for personal objects as true, which are expressly contradicted by letters of the party making the statements, written by him at the *times* of the occurrences they relate. Such is the course pursued in the "Life of Jefferson, by Randall," which, *first*, claims for Jefferson the merit of scrupulous veracity, when his habitual disregard of truth is a matter of history—next *vindicates* his practice of recording alleged private conversations—and then uses such alleged conversations, often obviously untrue, as his authority for the grossest calumnies. Whether viewed in regard to its assertions or its references, its misstatements or suppressions, no work can have less title to confidence. This will be shown.

The Revolution was a contest against abused power; and the people had seen, that, under a government whose charters embodied the great maxims and guards of liberty, there might be gross oppression. However carefully the Constitution may have provided for their rights, it was not difficult to confirm the apprehension, that it contained concealed and dangerous powers.

The Federal administration had produced only blessings. With nothing justly to complain of, it was yet necessary for the opposition to excite complaint; amidst their abundant happiness, to make the nation believe it was miserable; and that a chief author of its prosperity was the source of its misery. This was only to be effected by imputing dangerous ulterior designs, and devising colorable pretexts for the charge.

The manners of this country were not at that time democratic. The influence of the monarchy was still perceptible. The American officers had an air of command; and among the opulent there was a stately reserve —a demand of deference, thought to be little suited to institutions, in which distinctions of birth and rank were not recognized. Former habits were in conflict with the growing tastes. The restless passion for equality with the restless pretensions of undefined superiority. Former influences were most manifest on public occasions. The President had his attendants in livery; and his intercourse with the people was infrequent—at stated levees; resorted to chiefly by persons of official, or other importance. But these were free from pomp and ceremony—a medium being preserved between much state and great familiarity.*

*"He lived on the south side of Chestnut street. The place of reception was the dining room in the rear. At three o'clock, or at any time within a quarter of an hour afterwards, the visitor was conducted to this dining room,

Enjoying universal popularity, and respect,* it would not have been safe to have publicly charged Washington with motives other than the public good. He was represented as weakly complying with the wishes of ambitious men; and exaggerated statements were given of the observances he believed † were required by his high station.

These were imputed to a design "to prepare" ‡ the

from which all seats had been removed for the time. On entering, he saw the tall, manly figure of Washington, clad in black velvet; his hair in full dress, powdered and gathered behind in a large bag; yellow gloves on his hands, holding a cocked hat, the edges adorned with a black feather about an inch deep. He wore knee and shoe buckles, and a long sword with a finely wrought and polished steel hilt, which appeared at the left hip; the coat worn over the blade, and appearing from under the folds, behind; the scabbard of white polished leather. He stood always in front of the fireplace, with his face towards the door of entrance. The visitor was conducted to him; and he required to have the name so distinctly pronounced that he could hear it. He had the very uncommon faculty of associating a man's name, and personal appearance, so durably in his memory, as to be able to call any one by name who made him a second visit. He received his visitor with a dignified bow, while his hands were so disposed as to indicate that the salutation was not to be accompanied with shaking hands. As visitors came in, they formed a circle around the room. At a quarter past three, the door was closed. He then began on the right, and spoke to each, calling him by name, and exchanging a few words. When he had completed his circuit, he resumed his first position. The visitors approached him in succession, bowed, and retired. By four o'clock this ceremony was over."—Sullivan's Familiar Letters.

* It is related that the President and Mrs. Washington attended "Christ's Church," then the place of worship of the gentry of Philadelphia; and that it was the practice of the congregation, each Sunday morning, to wait outside the church until the President arrived; when they opened an avenue through which he passed, following him to their respective seats.

† Washington's Writings, x. 101.

‡ Jefferson, whose insidious attacks upon Washington pervade his works, addressing a person engaged in *writing a history of parties*, long after the decease of his benefactor, says, "I was ever persuaded that a belief that we must at length end in something like a British constitution, had some weight in his adoption of the ceremonies of levees, birthdays, pompous meetings with Congress, and other forms of the same character, *calculated to prepare us* gradually

people gradually for "a change" of government. Though disbelieved where the truth was known, real alarm was engendered among the uninformed inhabitants of the remote interior, who were thus prepared to receive every stimulant ministered to their jealousy.

The proposal to confer titles—the closed doors of the Senate—the contemplated distinction of pay to the Senators—the ceremonial suggested in the intercourse of the two branches of the Legislature, were all themes of suspicious comment. Nor were the heads of this new forming party above offering to it as aliment, the unguarded, sometimes fabricated, language of convivial intercourse.*

Widely to diffuse these calumnies, was the next thing to be accomplished.

The history of modern governments would be incomplete, without adverting to the condition and relations of the public press; producing, until its abuses have weakened its influence, a formidable despotism.

Though many of the gazettes which opposed the adoption of the Constitution, were hostile to the Secretary of the Treasury, as its leading advocate, there was a want of concert and of system in their opposition.

To collect all the discontents into one heated focus, and to give the desired direction to them, it was of moment to establish a partisan press, at the seat of Government. To secure the absolute control of this press, and to increase its influence, it was deemed desirable that its conductor should be dependent on the head of the opposition.

for a *change* which he believed possible, and to let it come on, with as little shock as might be to the public mind." It will not escape observation that while such a motive is suggested, he relates, as to Hamilton, according to him, a principal sharer in this purpose, that he *disapproved* of these alleged ceremonies.

* Jefferson's Works, iv. 450.

The arrangement of this matter was undertaken by Madison, who proceeded to New York, and commenced a negotiation, which resulted in the establishment of the "National Gazette."

A person,* who was appointed by Jefferson, a clerk in his department for the translation of foreign languages, five days after his appointment, issued the first number of this paper, thus giving it a semi-official character.

It was devoted to the abuse of all the measures which originated with Hamilton, and finally of all the conspicuous actors in the Government, with the exception of the Secretary of State, the Attorney-General, and his other adherents, who were the objects of its panegyrics.

The next care was to multiply the number of influential partisans.

In a merely personal and temporary view, Jefferson was fortunate in his absence from the United States, during the discussions of the Constitution. The knowledge of his opinions did not extend far beyond the limits of Virginia. He had excited no opposition to himself; and warily avoided, as has been seen, being publicly committed either as a friend, or as a foe, to the new system of Government. Its friends, and but a few, as yet, only doubted his opinions; of its enemies he enjoyed the confidence. Madison, conspicuous as he had been as its advocate, had reconciled himself to its adversaries. Thus with both, there were facilities in attaining the important object—the exciting disaffection in the ranks of the Federalists.

With this view, efforts were made to win every man of previous consideration or political weight, who had not participated in the patronage of the Federal government.

* October 26th, 1791, Philip Freneau was appointed Clerk in the Department of State, and October 31st is the date of the first number of this gazette

A respectable individual wished the appointment of Secretary to the Home department—no such department was created. Dickinson had been overlooked. McKean, the Chief Justice of Pennsylvania, saw his colleague Wilson preferred to the bench of the Supreme Court of the United States. Charles Pinckney, a more active than influential member of the Convention, was not selected, as Minister to Spain. These men, it was sought to disaffect.

Numerous as the appointments to civil offices, from the army, were, it was not possible to provide for all. The distinction would necessarily give offence. Few of rank could unite in opposing an administration of which Washington was the head; the opposition courted the subordinates.

In the State of New York, a large majority of the people are seen to have been hostile to the Constitution. This hostility was diminished by the beneficial operation of the National government, and by the united efforts of the Federalists; but the brief ascendency they gained, was lost after Hamilton's personal influence was withdrawn, by his removal to Philadelphia.

The success of the party which had opposed the Constitution there, was chiefly attributable to the energy and perseverance of Clinton, who was now aided by the accession of persons of considerable talent. The influence of Robert R. Livingston, the chief of a numerous family, of large possessions, had been, in the much divided opinions of New York during the Revolution, an important counterpoise to that of the Delanceys, who adhered to the crown.

His courteous address gave him a ready access to the confidence of his compatriots; and concealed an ardor of temperament, which rendered him a useful auxiliary to men of more resolute purpose, and larger forecast

Prompt, ingenious, active; eloquent on the floor and with the pen, he took a distinguished part, both in the provincial Congress of New York and in that of the Confederation; and, when Secretary of Foreign Affairs, sustained the reputation for talent he had early acquired.

Subsequently appointed Chancellor of that State, his personal importance was increased, as the head of its judiciary; but as a member of the Council of Revision, he had to encounter the stronger will of Clinton.

The political systems of these men widely and essentially differed. While Clinton engrossed, and would have enlarged the power and patronage of the State; Livingston, in the National Councils, took a broader view of the public interests. His ambition received a higher direction; he became a zealous advocate of the Federal Constitution, and aspired to the honors of the Government of the Union.

Soon after the inauguration of Washington, Livingston, who administered to him the oath of office, asked an appointment. Though Chancellor of New York, he saw Jay, who had never filled a judicial station, selected as the Chief of the National Judicature. After serving in various capacities until he rose to be Foreign Secretary, he now beheld Hamilton, so much his junior, preferred to the most important of the Executive departments, (the place to which he himself aspired,*) and welcomed by the nation. The highest office, for which he was at this time thought of by Washington,† was that of Postmaster-General;

* Madison to Jefferson, May 27, 1789, "The last" (the war department) "will be continued in the hands of General Knox; the second" (Foreign affairs) "will remain with Mr. Jay, if he chooses to keep it; the first" (Treasury department) "is also to be under one head, though to be branched in such a manner as to check the administration. Chancellor Livingston *wishes* this department, but *will not succeed.*"

† Washington's reply to R. R. L., May 31, 1789.

and to this office he was not appointed, nor to any other.*

Thus, the immediate gratification of his expectations was precluded, if not by other causes, by that geographical distribution of patronage which Washington had adopted. † Ere long, he also saw Schuyler elected to the Senate, and King, a recent citizen of New York, chiefly through Hamilton's influence, chosen as his colleague.

During his early efforts to invigorate the Confederacy, Hamilton is seen shielding the Chancellor from Legislative persecution. This service and similar views as to funding the debt, as to loans, the Impost, and the Excise,‡ gave the Secretary of the Treasury a right to rely upon his support in the administration of the finances. That expectation, if indulged, was not fulfilled. Previous to the third Session of the First Congress, overtures were made by Livingston to Clinton. If at first coldly received, the alienation was quickly removed. The earliest result of this coalition was, the election to the Senate of the United States, in opposition to Schuyler, whose term had nearly expired, of an avowed enemy § of Hamilton—the

* Washington to Hamilton, Sept. 20, 1789.

† Very lately it has been asked whether the omission to provide for him, "was not owing to personal jealousy." By referring to the journals of 1783, Hamilton will be seen to have offered a resolution of thanks to Livingston, for his public services; and, though the geographical distribution of office prevented his early promotion, it will be seen, that Hamilton, on the recall of Morris, recommended him for the mission to France.

‡ Debates, N. Y. Convention, 99.

§ "Mr. Burr was this day elected by both houses to succeed General Schuyler, by a large majority in the Senate, and of five in the House of Representatives. This is the fruit of the Chancellor's coalition with the Governor." —Tillary to H., Jan. 19, 1791. "We have lately had a council of appointment chosen by bargain, and heard of vacancies filled up by anticipation. Many who were Federalists rushed into his Excellency's vortex; and the Chancellor's family became one of the principal satellites of this planet.

election of Aaron Burr! Morgan Lewis, the brother-in-law of Chancellor Livingston, took the place of Burr, being appointed by Clinton Attorney-General.

No especial cause of Burr's animosity to Hamilton, which also extended to Washington, can, with certainty, be traced. It has been imputed to his not being appointed to a place in Washington's military family, with which, though not a member of it, he for a short time sojourned; and to which Hamilton was advanced. That it was excited by seeing a youthful stranger rising far above him in the public confidence, would not be an improbable presumption. But a sufficient solution may perhaps be found in the fact, of the fixed abhorrence of his character formed in the breast of Washington; which in so just a mind must have sprung from an adequate cause, of which cause, Hamilton, probably was cognizant.

The first evidence of Hamilton's distrust of Burr's personal honor is traced in a professional correspondence. This was commenced in eighty-six, in behalf of the creditors of an individual of whose estate Burr was assignee, to obtain from him, an account of the property of the debtor, "in order," as Hamilton stated, "to effectuate the application of it to the benefit of his creditors." This, alone, was sufficient to engender dislike; which, stimulated, probably, by professional jealousy, received a keener edge from political contentions, until Burr became his deadly foe.

Hence it is, that a blessed accession of strength will be added to the Senate of the United States, in the person of Colonel A. Burr. A coalition of interests from different principles produced his election. He is *avowedly your enemy*, and stands pledged to his party, for a reign of vindictive declamation against your measures. The Chancellor hates, and would destroy you. Between those who hate the government and hate principal persons who administer it, mischief is intended and may be feared."—Same to same, Nov. 8, 1791.

It has been seen in the first contested election in New York after the adoption of the Constitution, in which Governor Clinton was opposed, that Burr was a member of the Federal Committee with Hamilton. Before the end of the succeeding year, he was conspicuous as an adherent of Clinton. He had been, in the mean time, appointed by him—Attorney-General of the State.

The recent success of the opponents of the Constitution in New York raised the hopes of Jefferson and of Madison. Hitherto, since its adoption, there had existed in the northern parts of the Union, out of New York, only limited associations of the Anti-Federal party. The success of the administration had disarmed the opposition; and every indication was given of a zealous, hearty support. These small associations were to be cemented, and the larger masses of disaffection brought into concerted action.

With these views, Jefferson and Madison left Philadelphia for New York; where they arrived on the nineteenth of May, seventeen hundred ninety-one; and after frequent interviews with Chancellor Livingston and Burr,* they made a visit to Clinton under the pretext of a botanical excursion to Albany, thence extended their journey to Vermont; and, having sown a few tares in Connecticut, returned to the seat of government.

While Jefferson, a member of his cabinet, and Madison, upon whose support he was confidently relying, were thus journeying to the east for the purpose of extending the opposition to his administration, Washington had proceeded, in order to give it strength, on a tour to the Southern States.

* "There was every appearance of a passionate courtship between the Chancellor, Burr, Jefferson and Madison, when the two latter were in town. '*Delenda est Carthago*,' I suppose, is the maxim adopted, with respect to you." —Troup to H., June 15, 1791.

Letters written by the President at this time, evince the general contentment and prosperity of the people, before the complete organization of the party under Jefferson had excited disquietude. It will be remarked, that the sources of satisfaction were all the results of the policy Hamilton had initiated, and was consummating.

"Our public credit," writes the President, just before his departure, "is restored, our resources are increasing, and the general appearance of things, at least, equals the most sanguine expectation that was formed of the effects of the present government." "The laws of the United States," he wrote Lafayette, "adapted to the public exigencies, are framed with wisdom and moderation, and acquiesced in with cheerfulness." * On his return, he wrote, "Tranquillity reigns among the people, with that disposition towards the general government which is likely to preserve it. * * * Our public credit stands on that ground, which three years ago, it would have been madness to have foretold." †

"In my late tour through the Southern States," he wrote, ‡ "I experienced great satisfaction in seeing the good effects of the general government in that part of the Union. The people at large have felt the security which it gives, and the equal justice which it administers to them. Industry has there taken place of idleness, and economy of dissipation.

"The establishment of PUBLIC CREDIT is an immense point gained in our national concerns. This, I believe, exceeds the expectation of the most sanguine among us." "The attachment of all classes of citizens to the general government seems to be a pleasing presage of their future

* Washington's Writings, x. 140, March 16, 1791. Ibid. 141.

† Ibid. 172, July 20, 1791.

‡ Washington to Gouverneur Morris, July 28, 1791.

happiness and respeotability. The *complete* establishment of our public credit is a strong mark of the confidence of the people in the virtue of their representatives, and the wisdom of their measures." * * * "Each day's experience of the government of the United States serves to confirm its establishment, and to render it more popular. A ready acquiescence to the laws made under it, shows, in a strong light, the confidence which the people have in their representatives, and in the upright views of those who administer the government. At the time of passing a law imposing a duty on home made spirits, it was vehemently affirmed by many, that such a law could never be executed in the Southern States, particularly in Virginia and North Carolina. As this law," Washington wrote, "came in force only on the first of this month, little can be said of its effects, from experience; but, from the best information I could get on my journey respecting its operation on the minds of the people, and I took some pains to obtain information on this point, there remains no doubt, but it will be carried into effect, not only without opposition, but with very general approbation, in those very parts, where it was foretold that it would never be submitted to by any one. It is possible however, and perhaps not improbable, that *some demagogue* may start up, and produce and get signed some resolutions, declaratory of their disapprobation of the measure."*

That this law would have "been carried into effect," not only without opposition, but with very general approbation, had no "demagogue started up," to inflame the popular feeling, there is every reason to believe. †

* Washington x. 172. July 20, 1791.

† April 20, 1791, Colonel Edward Carrington, of Virginia, to Madison: "The Excise has ceased to produce any thing like clamor, and daily gains

But, at this moment, such an opposition, concerted at Philadelphia, was about to exhibit itself in Pennsylvania.

This * "opposition first manifested itself in the milder shape of the circulation of opinions unfavorable to the law, and calculated, by the influence of public disesteem, to discourage the accepting or holding of offices under it, or the complying with it by those who might be so disposed, to which was added the show of a discontinuance of the business of distilling.

"These expedients were shortly after succeeded by private associations to *forbear* compliances with the law. But it was not long, before these more negative modes of opposition were perceived to be likely to prove ineffectual. And, in proportion as this was the case, and as the means of introducing the laws into operation were put into execution, the disposition to resistance became more turbulent; and more inclined to adopt and practise violent expedients. The officers now began to experience marks of contempt and insult. Threats against them became frequent and loud; and, after some time, these threats were ripened into *acts* of ill treatment and outrage."

The course indicated by Findley, in the Legislature of Pennsylvania, was thus far pursued.

"These acts of violence were preceded by certain meetings of malcontent persons, who entered into resolu-

the good will of the people, as it becomes explained. In short, sir, the Federal government and its measures are much more agreeable than they have been. They discover the misrepresentations by which they have been made uneasy, and those who have misled them, lose continually their confidence." Same to same.—"The Excise is considered as the alternative for direct taxation. This is a sentiment which begins to be entertained throughout the country, and is reconciling the people to the law."

* Hamilton's Works, iv. 578.

tions calculated at once to confirm, inflame, and systematize the opposition." The first of these meetings took place six days after the date of Washington's last quoted letter, in which another member of that Legislature took a leading part.

This was holden at Redstone Old Fort, on the twenty-seventh of July, seventeen hundred ninety-one. The Chairman was Edward Cook—the Secretary, Albert Gallatin, who was destined to have a conspicuous share in Jefferson's councils.* It resolved the law to be "unequal in its operation, immoral in its effects, dangerous to liberty, and especially oppressive to the inhabitants of the Western country." It was there concerted, that county committees should be convened in the four Western counties of Pennsylvania, at their respective seats of justice, to form a committee to meet at Pittsburgh, on the seventh of September. A Circular and Address were to be issued to the neighboring counties of Pennsylvania, Virginia, and Kentucky, inviting them to make common cause. On the twenty-third of August, one of these committees assembled, consisting of several officers of the State Government.†

This meeting declared, "that any person who had accepted, or may accept an office under Congress, in order to carry the law into effect, should be considered as inim-

* Edmund Randolph, Attorney-General, to Madison, July 21, 1791: "Mr. A. White speaks triumphantly of the progress of the excise in his district, and the counties in the neighborhood of Fort Pitt. He mentions, however, that Mr. Gallatin is very industrious in disseminating discontent in the counties of Pennsylvania on the Ohio; and that he has attempted to infect the county of Monangalia. But an appointment has been made to the inspectorship of that quarter, of an anti-federal character, whose firmness and influence will sweep all difficulties before him."

† The Register of the County of Washington; the Deputy Attorney-General for the State; Judges, and other Magistrates.

ical to the interests of the country;" and "recommended the citizens of Washington county to treat every person who had accepted such office, or might thereafter accept, with contempt; and absolutely to refuse all kind of communication or intercourse with the officers, and to withhold from them all aid, support, or comfort."

This "vindictive proscription" was followed by an accumulation of "topics of crimination" on the Government; indicating "not merely a dislike of a particular law, but a disposition to render the Government itself unpopular and odious." Here a larger committee originated. The general meeting was held at Pittsburgh, on the ensuing seventh of September. They extended their censure beyond the Excise; complained of the exorbitant salaries of officers; of the unreasonable interest of the public debt; of the nondiscrimination between original holders and transferees of that debt; and of the institution of a National Bank.

"A representation to Congress and remonstrance to the Legislature of Pennsylvania," were adopted, published, and presented.

"These meetings, composed of very influential individuals, and conducted without moderation or prudence, are justly chargeable" with the subsequent excesses; and gave "consistency to an opposition, which threatened the foundations of the Government and of the Union."

The day previous to the meeting at Pittsburgh, a party of men, armed and disguised, waylaid a Collector of the Revenue, tarred and feathered him, and cut off his hair.

Processes were issued against the offenders. The person charged with their service was seized, whipped, tarred and feathered, and then tied, naked and blindfold, in the forest.

Soon after, a person of disordered intellect, imagining himself to be a Collector of the Revenue, made inquiries respecting it. The unfortunate maniac was pursued by a party in disguise, taken out of his bed, carried off several miles, stripped of his clothes, and inhumanly branded, tarred and feathered.

This outrage was the more remarked, from the circumstance, "that persons of weight and consideration in the region where it occurred, were understood to have been actors in it; and, as the symptoms of insanity were, during the whole time of inflicting the punishment, apparent; the unhappy sufferer displaying the heroic fortitude of a man who conceived himself to be a martyr to the discharge of some important duty."

This act of violence was followed by another. An individual who had in conversation declared, "that the inhabitants of the county could not reasonably expect protection from a government whose laws they so strenuously opposed," suffered the most humiliating treatment.

Subsequently, armed banditti seized and carried off the witnesses summoned to testify against the perpetrators of these excesses; and "designs of personal violence against the Inspector of the Revenue, to force him to a resignation, were repeatedly attempted to be put in execution by armed parties, but were frustrated."

Thus, an organized body was formed, in the centre of the Union, for the purpose of resisting an act of the Government, passed in pursuance of an express provision of the Constitution. Its officers were outlawed, though no charge of its abuse was made; their persons and their property violated; the administration of justice forcibly interrupted.

Such was one of the alarming results of the opposi-

tion to it, ere this Government had completed the third year of its existence.

It has been seen that these outrages were adverted to in the President's speech, in language indicating a firm purpose to carry the law into effect, and a disposition to consult the reasonable wishes of the people as to its provisions. In this spirit, the modifications of the system were suggested by Hamilton; and the bill was enacted, which gave the President authority to employ the militia to execute the laws of the Union.

While these dangerous external influences were in action, efforts were made to encamp hostile officers within the very lines of the Government. During the absence of the President on his Southern tour, the Comptroller of the Treasury died. Either as a mean of embarrassing the head of the Treasury department, or to profit of the influence the Comptroller would naturally have over the large number of subordinates engaged in collecting the revenue; it was thought a great stroke of policy to fill the vacancy with a partisan.

With these views, among others, the Assistant Secretary of the Treasury, Tench Coxe, who was subsequently dismissed from office, was brought forward.

Hamilton, being apprised of the proposed movement, immediately addressed a letter to the President, presenting the then Auditor, Oliver Wolcott, as a proper person to fill the vacancy. His letter is valuable, not only as a tribute due to that meritorious officer, but as an exhibition of Hamilton's views of the principles which ought to govern in appointments to office.

Having passed a well-deserved encomium on the candidate he preferred, as "a man of rare merit; one to whom he avowed he owed much of whatever success may have attended the merely executive operations of

the department," and as having eminent qualifications, as Comptroller, he remarked, "though a regular gradation in office is not admissible, in that sense, in regard to offices of a civil nature; and is wholly inapplicable to those of the first rank, such as heads of the great Executive Departments; yet, a certain regard to the relations which one selection bears to another, is consonant with the natural ideas of justice; and is recommended by powerful considerations of policy. The expectation of promotion in civil, as in military life, is a great stimulus to virtuous exertion; while examples of unrewarded exertion, supported by talent and qualification, are proportionate discouragements. When they do not produce resignations, they leave men dissatisfied; and a dissatisfied man seldom does his duty well. In a government like ours, where pecuniary compensations are moderate, the principle of gradual advancement, as a reward for good conduct, is perhaps more necessary to be attended to, than in others, where offices are more lucrative. By due attention it will operate as a mean to secure respectable men for offices of inferior emolument and consequence." He added, that "these observations proceeded from an honest zeal for the public good, and from a firm conviction that the prosperity of the department made his particular care (one so interesting to the aggregate movements of the Government), will be best promoted."

Instantly on his return to Mount Vernon, Washington announced to Hamilton that his recommendation had prevailed. Hamilton replied, "This appointment gives me particular pleasure, as I am confident it will be a *great* and *real* improvement in the state of the Treasury department." *

Jefferson was doomed to defeat, as to another appoint-

* Jefferson wrote Madison, July 27, 1791, "Nobody could know of Tench Coxe's application, but himself, Hamilton, *you*, and *myself*."

ment, of which he anxiously coveted the control. A vacancy occurred in the office of Postmaster-General, by the decease of Osgood.

The character of the relations which had existed between Jefferson and Paine has been seen. They were in full, dangerous confidence.* The appeals made by Paine, during the Revolution, had shown the power of his pen; and had familiarized him to the American people. To prompt alarm, and to excite distrust, this pen would be a powerful auxiliary. Should he be intrusted with the patronage of the Post Office department, pervading the whole country, this channel for the dissemination of insurrectionary opinions would be entirely under Jefferson's command; for, both as to politics and religion, Paine and Jefferson had similar views.

Immediately after the return of Washington to Philadelphia, an attempt was made to induce him to confide the Post Office Department to Thomas Paine. This movement also failed.. "Mr. Jefferson and myself," the Attorney-General Randolph wrote to Madison, on the twenty-first of July, "have attempted to bring Paine forward as successor to Osgood. It seemed to be a fair opportunity for a declaration of certain sentiments. But, all that I have heard, has been, that it would be too pointed, to keep a vacancy unfilled, until his return from the other side of the water. The contest seems to be between Pickering, Peters, and F. A. Mughlenberg." Colonel Pickering was appointed.

* Jefferson to Paine, *Paris*, March 17, 1789, certain instructions "are reasonable beyond the reach of an Englishman, who, slumbering under a kind of *half reformation* in politics and *religion*, is not excited by any thing he sees or feels, to question the *remains of prejudice*. The writers of this country, now taking the field freely and unrestrained, or rather revolted by prejudice, will rouse us *all* from the *errors* in which we have been *rocked*."—Jefferson's Works, ii. 446.

CHAPTER LXXV.

THE progress of parties has been traced to the beginning of the second Congress. The Federalists maintained their ascendency in both Houses. The Democrats had formed a more compact union. In the Senate, James Monroe, as stated, had been elected to a vacancy. In the House, as has been seen, Giles filled the place of Bland, who had recently died, justly lamented; and Findley, rewarded for his hostility to the Constitution, and to the Excise, took his seat among the delegation of Pennsylvania.

The course of the opposition during the recent session has been indicated.

The great dividing topic was the ratio in the apportionment of the Representatives among the States. The debate was conducted with the warmth which always attends a question immediately affecting the relative political power of the States: and was decided in a mode, which has proved unsatisfactory to the more intelligent minds of the nation.

The advocates for a large representation were stigmatized as the promoters of a consolidation of the Government. Those of a smaller ratio called themselves the true Republicans. The latter claimed the merit of founding their ratio on the principle of a *compact* between the

several independent States, stipulating their relative weight and interest in a particular part of a Federal system. The former, by applying it to the aggregate population of the Union, as one nation, excluded the idea of a compact between the States, and thus, it was charged, annulled the State character, and State rights.

The debate on the bill for the encouragement of the Fisheries took a peculiar direction. The opposition, regarding Hamilton as the prominent advocate for its exertion, contested the constitutional power of Legislative protection; but, as Jefferson had admitted its existence, they surrendered their objections, content with the substitution, in the law, of the word "allowance," for "bounty."

The propositions made by the Secretary of the Treasury to extinguish the debt, are seen to have been opposed in every stage; and opposed on principles which, if they had prevailed, would have proved subversive of all private and public credit. That the opposition to these propositions was instigated by Jefferson, is inferred from the fact, that he was the inventor and propagator of the extraordinary doctrines avowed on that occasion.*

He also, it has been shown, commenced an intrigue to prevent Hamilton reporting to Congress plans for the improvement of the revenue, hoping, thus, to induce his resignation.

The last instance, during this Session, in which this

* Madison to Jefferson, February 4, 1790; after a reply to his notion that one generation cannot bind another, Madison observed, "The spirit of *philosophical* legislation has not prevailed, at all, in some parts of America; and is, by no means, the fashion of this part, or of the representative body. The evils suffered or feared from weakness in government and licentiousness in the people, have turned the attention more towards the means of strengthening the powers of the former, than of narrowing their extent in the minds of the latter." See Jeff. Works, iii. 102, 109.

attempt was made, indicated unmeasured hostility. A memorial respecting the Act imposing a tax on domestic spirits, had been presented in behalf of the town of Newport, and referred to the Secretary of the Treasury, without hesitation, as being within his province. Another, on the same subject, from a district in Pennsylvania; it was proposed, should receive a similar direction. Notwithstanding Hamilton's intention to modify the law, had been distinctly communicated to Congress, by the President, this reference was opposed, Giles taking the lead. Thus, while Hamilton was denounced, as the author of an oppressive and obnoxious law, an attempt was deliberately made to prevent his suggesting such modifications as might remove the existing discontents; and, when he urged, through his immediate friends, the conferring on the Government the power necessary to execute the laws to suppress an insurrection, which these discontents threatened to produce, the grant of this power was opposed, and opposed by the same persons!

The zeal with which it was contended, that Congress could not delegate to the President the control of the public mail, has been remarked. Madison is seen declaring it to be "an advance to monarchy, which, if not checked in season, would unhinge the Government." The supervision of the Post Office, as a source of revenue, had been early confided to the Secretary of the Treasury. This power, deemed so dangerous, having been granted to the Executive, was still grasped at by Jefferson. He urged * the President to commit it to the *Department of State*, on the grounds, that it had ceased to be a revenue law; "and that the Department of the Treasury possessed already such an influence, as to swallow up the whole executive powers." "I had certainly

* February 28, 1792.

no personal interest," he observed to the President, "since, if I was supposed to have any appetite for power, yet as my career would certainly be exactly as short as his own, the intervening time was too short to be an object. My real wish was, to avail the public of every occasion, during the residue of the President's period, to place things on a safe footing." The President, unwilling to confide increased patronage to the Secretary of State, did not feel the indicated danger. Jefferson subsequently addressed a letter to him, proposing that the MINT should be added to his department, as the Post Office was annexed to the Treasury.* The request was thus acceded to: "The Post Office," Washington wrote to him, "as a branch of revenue, was annexed to the Treasury, in the time of Mr. Osgood; and when Colonel Pickering was appointed thereto, he was informed, as I find by my letter to bear date the twenty-ninth of August, seventeen hundred ninety-one, that he was to consider it, in that light." "If from relationship, or usage in similar cases, (for I have made no inquiry into the matter, having been closely employed since you mentioned the thing to me, in reading the papers from the War Office), the Mint does not appertain to the Department of the Treasury, I am more inclined to add it to that of State, than to multiply the duties of the other."†

Having failed to compel Hamilton to resign, it was resolved to tarnish his reputation. With this view, every effort made by him to provide the means, and to impart energy to the measures, which were taken for the protection of the Frontiers, was opposed; and, when St. Clair was defeated, and alarm was spread through the interior, he was arraigned before the nation, as the author of the

* October 20, 1792.

† Washington to Jefferson, October 20, 1792.

disaster—designedly arraigned—too late to enable him to interpose a complete vindication of this unsupported charge.

The warfare thus unceasingly waged against the Secretary of the Treasury, kindled the indignation of his friends. Confident in his spotless integrity, and proud of his abilities, they resolved to expose the designs of his adversaries.

Though the object of undeserved censure, from the beginning of his labors to build up the Government, yet his regard to the public interests predominated over his feelings. Hamilton checked the rising wrath of his supporters, and submitted in silence. Though urged to retaliate, yet foreseeing how deep a wound, a public knowledge of the divisions in the Cabinet would inflict, he stood aloof from the contest, which began to rage. A confidential letter, written to a much esteemed friend and fellow-soldier, in Virginia, Colonel Carrington, depicts his feelings under these persecutions, and gives a deeply interesting and confirmatory view of the course, and causes of the events which have been related.

"Philadelphia, May 26th, 1792—My dear Sir:—Believing that I possess a share of your personal friendship, and confidence, and yielding to that which I feel towards you, persuaded also, that our political creed is the same on *two essential points*, first, the necessity of UNION to the respectability and happiness of this country; and second, the necessity of an *efficient* general government to maintain that Union; I have concluded to unbosom myself to you, on the present state of political parties and views. I ask no reply to what I shall say; I only ask that you will be persuaded, the representations I shall make, are agreeable to the real and sincere impressions of my mind. You will make the due allowances for the influence of circum-

stances upon it; you will consult your own observations, and you will draw such a conclusion as shall appear to you proper.

When I accepted the office I now hold, it was under a full persuasion, that from similarity of thinking, conspiring with personal good will, I should have the firm support of Mr. Madison, in the *general course* of my administration. Aware of the intrinsic difficulties of the situation, and of the powers of Mr. Madison, I do not believe I should have accepted under a different supposition.

I have mentioned the similarity of thinking between that gentleman and myself. This was relative, not merely to the general principles of national policy and government, but to the leading points, which were likely to constitute questions in the administration of the finances. I mean, first, the expediency of *funding* the debt; second, the inexpediency of *discrimination* between original and present holders; third, the expediency of *assuming* the State debts.

As to the first point, the evidence of Mr. Madison's sentiments, at one period, is to be found in the address of Congress, of April twenty-sixth, seventeen hundred and eighty-three, which was planned by him, in conformity to his own ideas, and without any previous suggestions from the Committee, and with his hearty co-operation in every part of the business. His conversations upon various occasions since, have been expressive of a continuance in the same sentiment; nor, indeed, has he yet contradicted it, by any part of his official conduct. How far there is reason to apprehend a change in this particular, will be stated hereafter.

As to the second part, the same Address is an evidence of Mr. Madison's sentiments, at the same period. And I had been informed that at a later period, he had

been in the Legislature of Virginia, a strenuous and successful opponent of the principle of discrimination. Add to this, that a variety of conversations had taken place between him and myself, respecting the public debt, down to the commencement of the new Government, in none of which had he glanced at the idea of a change of opinion. I wrote him a letter after my appointment, in the recess of Congress, to obtain his sentiments on the subject of the Finances. In his answer, there is not a lisp of his new system.

As to the third point, the question of an Assumption of the State debts by the United States, was in discussion, when the Convention that framed the present Government was sitting at Philadelphia, and in a long conversation, which I had with Mr. Madison, in an afternoon's walk, I well remember, that we were perfectly agreed in the expediency, and propriety of such a measure; though, we were both of opinion, that it would be more advisable to make it a measure of Administration, than an article of Constitution; from the impolicy of multiplying obstacles to its reception, on collateral details.

Under these circumstances, you will naturally imagine, that it must have been matter of surprise to me, when I was apprised, that it was Mr. Madison's intention to oppose my plan, on both the last-mentioned points.

Before the debate commenced,* I had a conversation with him on my Report; in the course of which, I alluded to the calculation I had made of his sentiments, and the grounds of that calculation. He did not deny them; but alleged in his justification, that, the very considerable alienation of the debt, subsequent to the periods at which

* Hamilton to Madison. "If Mr. Madison should be disengaged this evening, Mr. Hamilton would be obliged by an opportunity of conversing with him at his lodgings for half an hour. If engaged this evening, he will thank him to say, whether to-morrow evening will suit. Wednesday."

he had opposed a discrimination, had essentially changed the state of the question; and, that, as to the Assumption, he had contemplated it, to take place, *as matters stood at the peace.*

While the change of opinion avowed on the point of discrimination, diminished my respect for the force of Mr. Madison's mind, and the soundness of his judgment; and while the idea of reserving and setting afloat a vast mass of already extinguished debt, as the condition of a measure, the leading objects of which, were an accession of strength to the National Government, and an assurance of order and vigor in the National finances, by doing away the necessity of thirteen complicated and conflicting systems of finance, appeared to me somewhat extraordinary; yet my previous impressions of the fairness of Mr. Madison's character, and my reliance on his good will towards me, disposed me to believe, that his suggestions were sincere; and, even, on the point of an Assumption of the debts, of the States, as they stood at the peace, to lean towards a co-operation in his views; till on feeling the ground I found the thing impracticable; and on further reflection, I thought it liable to immense difficulties. It was tried, and failed with little countenance.

At this time, and afterwards, repeated intimations were given to me, that Mr. Madison, from a spirit of rivalship, or some other cause, had become personally unfriendly to me; and one gentleman, in particular, whose honor I have no reason to doubt, assured me, that Mr. Madison, in a conversation with him, had made a pretty direct attempt to insinuate unfavorable impressions of me. Still, I suspended my opinion on the subject. I knew the malevolent officiousness of mankind too well, to yield a very ready acquiescence to the suggestions which were made; and resolved to wait, till time and more experience should afford a solution.

It was not, till the last session, that I became unequivocally convinced of the following truth, "*that Mr. Madison, co-operating with Mr. Jefferson, is at the head of a faction, decidedly hostile to me, and my administration; and actuated by views, in my judgment, subversive of the principles of good government, and dangerous to the Union, peace and happiness of the country.*"

These are strong expressions, they may pain your friendship for one, or both of the gentlemen, whom I have named. I have not lightly resolved to hazard them. They are the result of a *serious alarm* in my mind for the public welfare; and of a full conviction, that what I have alleged is a truth, and a truth, which ought to be told, and well attended to, by all the friends of Union and efficient National government. The suggestion will, I hope, at least, awaken attention, free from the bias of former prepossessions.

This conviction in my mind, is the result of a long train of circumstances; many of them minute. To attempt to detail them all, would fill a volume. I shall therefore confine myself to the mention of a few.

First, As to the point of opposition to me, and my administration.

Mr. Jefferson, with very little reserve, manifests his dislike of the funding system, generally; calling in question, the expediency of funding a debt, at all. Some expressions, which he has dropped in my own presence, (sometimes without sufficient attention to delicacy,) will not permit me to doubt on this point, representations, which I have had from various respectable quarters. I do not mean, that he advocates directly the undoing of what has been done; but he censures the whole, on principles, which, if they should become general, could not but end in the subversion of the system.

In various conversations with *foreigners*, as well as citizens, he has thrown censure on my *principles* of government, and on my measures of administration. He has predicted, that the people would not long tolerate my proceedings; and, that I should not long maintain my ground. Some of those, whom he *immediately* and *notoriously* moves, have *even* whispered suspicions of the rectitude of my motives and conduct. In the question concerning the Bank, he not only, delivered an opinion in writing against its constitutionality and expediency; but he did it *in a stile and manner*, which I felt as partaking of asperity and ill humor towards me. As one of the trustees of the Sinking fund, I have experienced, in almost every leading question, opposition from him. When any turn of things in the community has threatened either odium or embarrassment to me, he has not been able to suppress the satisfaction, which it gave him.

A part of this, is of course information, and might be misrepresentation. But it comes through so many channels, and so well accords with what falls under my own observation, that I can entertain no doubt.

I find a strong confirmation in the following circumstances. *Freneau*, the present printer of the "National Gazette," who was a journeyman, with Childs & Swain, at New York, was a known Anti-federalist. It is reduced to a certainty, that he was brought to Philadelphia, by Mr. Jefferson to be the conductor of a newspaper. It is notorious, that cotemporarily with the commencement of his paper, he was a clerk in the department of State, for foreign languages. Hence a clear inference, that his paper has been set on foot, and is conducted, under the patronage, and not against the views of Mr. Jefferson. What then is the complexion of this paper? Let any impartial man peruse all the numbers down to the present

day; and, I never was more mistaken, if he does not pronounce, that it is a paper, devoted to the subversion of me and the measures in which I have had an agency; and, I am little less mistaken, if he do not pronounce, that it is a paper, of a tendency *generally unfriendly* to the Government of the United States.

It may be said, that a newspaper being open to all the publications, which are offered to it, its complexion may be influenced by other views, than those of the editor. But the fact here is, that, whenever the editor appears, it is in a correspondent dress. The paragraphs which appear as his own, the publications, not original, which are selected for his press, are of the same malignant and unfriendly aspect; so, as not to leave a doubt, of the temper which directs the publication.

Again, Brown, who publishes an Evening paper, called, "THE FEDERAL GAZETTE," was originally a zealous federalist, and personally friendly to me. He has been employed by Mr. Jefferson as a printer to the Government for the publication of the laws; and, for some time past, till lately, the complexion of his press was equally bitter, and unfriendly to me, and to the Government.

Lately, Col. Pickering, in consequence of certain attacks upon him, got hold of some instances of malconduct of his which have served to hold him in check; and seemed to have varied his tone a little. I don't lay so much stress on this last case, as on the former. There, I find an internal evidence, which is as conclusive, as can be expected in any similar case. Thus far, as to Mr. Jefferson.

With regard to Mr. Madison, the matter stands thus. I have not heard, but in the one instance to which I have alluded, of his having held language unfriendly to me, in private conversation. But in his public conduct, there has been a more uniform and persevering opposition than

I have been able to resolve, into a sincere difference of opinion. I cannot persuade myself, that Mr. Madison and I, whose politics had formerly so much the *same point of departure*, should now diverge so widely, in our opinions of the measures, which are proper to be pursued. The opinion I once entertained of the candor, and simplicity and fairness of Mr. Madison's character, has, I acknowledge, given way to a decided opinion, that it *is one of a peculiarly artificial, and complicated kind.*

For a considerable part of the last session, Mr. Madison lay, in a great measure, *perdu.* But it was evident, from his votes and a variety of little movements and appearances, that he was the prompter of Mr. Giles and others, who were the open instruments of opposition. Two facts occurred in the course of the session, which I view, as unequivocal demonstrations of his disposition towards me. In one, a direct and decisive blow was aimed. When the department of the Treasury was established, Mr. Madison was an unequivocal advocate of the principles which prevailed in it, and of the powers and duties, which were assigned by it to the head of the department. This appeared, both from his private and public discourses; and, I will add, that I have personal evidence, that Mr. Madison is as well convinced, as any man in the United States, of the necessity of the arrangement, which characterizes that establishment, to the orderly conducting of the business of the finances.

Mr. Madison, nevertheless, opposed a reference to me, to report *ways* and *means* for the Western expedition; and combated, *on principle*, the propriety of such references.

He well knew, that, if he had prevailed, a certain consequence was, my *resignation;* that I would not be fool enough, to make pecuniary sacrifices and endure a life of

extreme drudgery, without opportunity, either to do material good, or to acquire reputation; and frequently, with a responsibility in reputation for measures, in which I had no hand, and in respect to which, the part I had acted, if any, could not be known.

To accomplish this point, an effectual train, as was supposed, was laid. Besides those who ordinarily acted under Mr. Madison's banners, several, who had generally acted with me—from various motives, vanity, self-importance, etc., etc., were enlisted.

My overthrow was anticipated as certain. And, Mr. Madison, *laying aside his wonted caution*, boldly led his troops, as he imagined, to a certain victory. He was disappointed. Though, *late*, I became apprised of the danger. Measures of counteraction were adopted; and when the question was called, Mr. Madison was confounded, to find characters, voting against him, whom he had counted upon, as certain.

Towards the close of the session, another, though a more covert, attack was made. It was in the shape of a proposition to insert in the supplementary Act, respecting the public debt, something by way of instruction to the trustees—"to make their purchases of the debt at the *lowest* market price." In the course of the discussion of this point, Mr. Madison dealt much in *insidious insinuations*, calculated to give an impression, that the public money, under my particular direction, had been unfaithfully applied to put undue advantages in the pockets of speculators, and to support the debt at an *artificial* price, for their benefit. The whole manner of this transaction left no doubt in any one's mind, that Mr. Madison was actuated by *personal* and political animosity.

As to this last instance, it is but candid to acknowledge, that Mr. Madison had a better right to act the ene-

my, than on any former occasion. I had, some short time before, subsequent to his conduct respecting the reference, declared, openly, my opinion of the views, by which he was actuated towards me; and my determination to consider and treat him as a political enemy.

An intervening proof of Mr. Madison's unfriendly intrigues to my disadvantage, is to be found in the following incident, which I relate to you upon my honor, but, from the nature of it, you will perceive, in the *strictest confidence*. The President having prepared his speech at the commencement of the ensuing session, communicated it to Mr. Madison, for his remarks. It contained, among other things, a *clause* concerning WEIGHTS and MEASURES, hinting the advantage of an invariable standard, which *preceded*, in the original state of the speech, a clause concerning the MINT. Mr. Madison suggested a transposition of these clauses, and the addition of certain words, which I now forget, importing an *immediate connection* between the two subjects. You may recollect, that, Mr. Jefferson proposes, that the *Unit of Weight* and the *Unit in the coins*, shall be the same, and that my propositions are to preserve the dollar, as the Unit, adhering to its present quantity of silver, and establishing the same proportion of alloy in the silver as in the gold coins. The evident design of this maneuvre was, to commit the President's opinion, in favor of Mr. Jefferson's idea, in contradiction to mine; and, the worst of it is, *without his being aware of the tendency of the thing*. It happened, that the President showed me the speech, altered in conformity to Mr. Madison's suggestion, just before it was copied for the purpose of being delivered. I remarked to him, the tendency of the alteration. *He declared that he had not been aware of it, and had had no such intention; and without*

hesitation, agreed to expunge the words, which were designed to connect the two subjects.

This transaction, in my opinion, not only furnishes a proof of Mr. Madison's *intrigues*, in opposition to my measures; but charges him with an *abuse* of the President's confidence in him, by endeavoring to make him, without his knowledge, take part with one officer against another, in a case, in which they had given different opinions to the Legislature of the country. *I forbore to awaken* the President's mind to this last inference; but, it is among the circumstances which have convinced me, that Mr. Madison's true character is the reverse of that *simple, fair, candid one*, which he has assumed.

I have informed you, that Mr. Freneau was brought to Philadelphia, by Mr. Jefferson, to be the conductor of a newspaper. My information announced Mr. Madison, as the mean of negotiation, while he was at New York, last summer. This, and the general coincidence and close intimacy between the two gentlemen, leave no doubt, that their views are substantially the same.

Secondly, As to the tendency of the views of the two gentlemen, who have been named.

Mr. Jefferson is an avowed enemy to a funded debt. Mr. Madison disavows, in public, any intention to *undo*, what has been done; but, in a private conversation with Mr. Charles Carroll, Senator, (this gentleman's name, I mention confidentially, though he mentioned the matter to Mr. King, and several other gentlemen, as well as myself; and if any chance should bring you together, you would easily bring him to repeat it to you;) he favored the sentiment in Mr. Mercer's speech, that a Legislature had no right to *fund* the debt, by mortgaging permanently the public revenues; because, they had no right to bind posterity. The inference is, that what has been unlawfully done, may be undone.

The discourses of partisans in the Legislature; and, the publications in the party newspapers, direct their main battery against the *principle* of a funded debt; and represent it, in the most odious light, as a perfect PANDORA'S BOX.

If Mr. Barnewell of South Carolina, who appears to be a man of nice honor, may be credited; Mr. Giles declared, in a conversation with him, that, if there was a question for reversing the funding system, on the abstract point of the right of pledging, and the utility of preserving public faith; he should be for reversal; merely to demonstrate his sense of the defect of right, and the inutility of the thing. If positions, equally extravagant, were not publicly advanced by some of the party, and secretly countenanced by the most *guarded*, and *discreet* of them, one would be led, from the absurdity of the declaration, to suspect misapprehension. But, from what is *known*, any thing may be *believed*.

Whatever were the original merits of the funding system, after having been so solemnly adopted, and after so great a transfer of property under it, what would become of the Government, should it be reversed? What of the National Reputation? Upon what system of morality, can so atrocious a doctrine be maintained? In me, I confess, it excites *indignation* and horror!

What are we to think of those maxims of Government, by which the power of a Legislature is denied, to bind the nation, by a *contract* in the affair of *property* for twenty-four years? For this, is precisely the case of the debt. What are to become of all the legal rights of property, of all charters to corporations, nay, of all grants to a man, his heirs and assigns, for ever, if this doctrine be true? What is the term for which a Government is in capacity to contract? Questions might be multiplied without end, to

demonstrate the perniciousness, and absurdity of such a doctrine.

In almost all the questions, great and small, which have arisen, since the first session of Congress, Mr. Jefferson and Mr. Madison have been found among those who are disposed to narrow the Federal authority. The question of a National Bank, is one example. The question of Bounties to the Fisheries, is another. Mr. Madison resisted it, on the ground of constitutionality, till it was evident, by the intermediate questions taken, that the bill would pass; and he then, under the wretched subterfuge of a change of a single word "bounty" for "allowance," went over to the majority, and voted for the bill. On the militia bill, and in a variety of minor cases, he has leaned to abridging the exercise of Federal authority, and leaving, as much as possible, to the States; and he has lost no opportunity, of *sounding the alarm*, with great affected solemnity, at encroachments, meditated on the rights of the States, and of holding up the bugbear of a faction in the Government, having designs unfriendly to liberty.

This kind of conduct has appeared to me the more extraordinary, on the part of Mr. Madison, as I know, for a certainty, it was a primary article in his creed, that the real danger in our system, was the subversion of the National authority by the preponderancy of the State governments. All his measures have proceeded on an opposite supposition.

I recur again to the instance of Freneau's paper. In matters of this kind one cannot have direct proof of men's latent views; they must be inferred from circumstances. As the coadjutor of Mr. Jefferson in the establishment of this paper, I include Mr. Madison, in the consequences imputable to it.

In respect to our foreign politics, the views of these

gentlemen are, in my judgment, equally unsound, and dangerous. THEY HAVE A WOMANISH ATTACHMENT TO FRANCE, AND A WOMANISH RESENTMENT AGAINST GREAT BRITAIN. They would draw us into the closest embrace of the former, and involve us in all the consequences of her politics; and they would risk the peace of the country, in their endeavors, to keep us at the greatest possible distance from the latter. This disposition goes to a length, particularly in Mr. Jefferson, of which, till lately, I had no adequate idea. Various circumstances prove to me, that, if these gentlemen were left to pursue their own course, there would be, in less than six months, AN OPEN WAR BETWEEN THE UNITED STATES AND GREAT BRITAIN.

I trust, I have a due sense of the conduct of France towards this country, in the late revolution; and that, I shall always be among the foremost, in making her every suitable return; but there is a wide difference between this, and implicating ourselves in all her politics; between bearing good will to her, and hating, and wrangling with, all those whom she hates. The Neutral and the Pacific policy, appear to me to mark the true path to the United States.

Having delineated to you, what I conceive, to be the true complexion of the politics of these gentlemen; I will now attempt a solution of these strange appearances.

Mr. Jefferson, it is known, did not, in the first instance, cordially acquiesce in the new Constitution for the United States; he had many doubts, and reserves. He left this country, before we had experienced the imbecilities of the former.

In France, he saw government, only on the side of its abuses. He drank deeply of the French philosophy, in religion, in science, in politics. He came from France, in the moment of a fermentation, which he had a share in

exciting; and in the passions and feelings of which, he shared, both from temperament and situation. He came here, probably with a too partial idea of his own powers; and, with the expectation of a greater share in the direction of our councils, than he has, in reality, enjoyed. I am not sure, that he had not peculiarly marked out for himself, the department of the finances.

He came, electrified *plus* with attachment to France, and with the project of knitting together, the two countries, in the closest political bands.

Mr. Madison had always entertained an exalted opinion of the talents, knowledge, and virtues of Mr. Jefferson. The sentiment, was, probably, reciprocal. A close correspondence subsisted between them, during the time of Mr. Jefferson's absence from this country. A close intimacy arose upon his return.

Whether any peculiar opinions of Mr. Jefferson, concerning the public debt, wrought a change in the sentiments of Mr. Madison (for it is certain, that the former is more radically wrong, than the latter;) or, whether, Mr. Madison, seduced by the expectation of popularity, and possibly by the calculation of advantage to the State of Virginia, was led to change his own opinion; certain it is, that a very material *change* took place, and that the two gentlemen were united in the new ideas. Mr. Jefferson was indiscreetly open in his approbation of Mr. Madison's principles, upon his first coming to the seat of Government. I say, indiscreetly, because, a gentleman in the Administration, in one department, ought not to have taken sides against another, in another department.

The course of this business and a variety of circumstances, which took place, left Mr. Madison a very discontented and chagrined man, and begot some degree of ill-humor in Mr. Jefferson.

Attempts were made by these gentlemen, in different ways, to produce a commercial warfare with Great Britain. In this, too, they were disappointed. And, as they had the liveliest wishes on the subject, their dissatisfaction has been proportionably great; and, as I had not favored the project, I was comprehended in their displeasure.

These causes, and perhaps some others, created, much sooner than I was aware of it, a systematic opposition to me, on the part of those gentlemen. My subversion, I am now satisfied, has been long an object with them.

Subsequent events have increased the spirit of opposition, and the feelings of personal mortification on the part of these gentlemen.

A mighty stand was made on the affair of the Bank. There was much *commitment* in that case. I prevailed.

On the Mint business, I was opposed from the same quarter, and with still less success. In the affair of ways and means for the Western expedition; on the supplementary arrangements concerning the debt, except, as to the additional assumption, my views have been equally prevalent in opposition to theirs. This current of success on one side, and defeat on the other, have rendered the opposition furious; and have produced a disposition to subvert their competitors, even at the expense of the Government.

Another circumstance has contributed to widening the breach. 'Tis evident, beyond a question, from every movement, that Mr. Jefferson aims, with ardent desire, at the Presidential chair. This, too, is an important object of the party—politics. It is supposed, from the nature of my former personal and political connections, that I may favor some other candidate, more than Mr. Jefferson, when the question shall occur, by the retreat of the

present gentleman. My influence, therefore, with the community, becomes a thing, on ambitious and personal grounds, to be resisted and destroyed.

You know, how much it was a point, to establish the Secretary of State, as the officer who was to administer the Government in defect of the President and Vice-President. Here, I acknowledge, though I took far less part than was supposed, I ran counter to Mr. Jefferson's wishes; but if I had had no other reason for it, I had already *experienced opposition* from him, which rendered it a measure of *self-defence*.

It is possible, too, (for men easily heat their imaginations when their passions are heated,) that they have, by degrees, persuaded themselves of what they may have at first only sported, to influence others; namely, that there is some dreadful combination against State Government, and Republicanism; which, according to them, are convertible terms. But there is so much absurdity in this supposition, that the admission of it tends to apologize for their hearts, at the expense of their heads.

Under the influence of all these circumstances, the attachment to the Government of the United States, originally weak in Mr. Jefferson's mind, has given way to something very like dislike in Mr. Madison's, it is so counteracted by personal feelings, as to be more an affair of the head than of the heart; more the result of a conviction of the necessity of Union, than of cordiality to the thing itself. I hope it does not stand worse than this with him.

In such a state of mind, both these gentlemen are prepared to hazard a great deal to effect a change. Most of the important measures of every Government are connected with the Treasury. To subvert the present head of it, they deem it expedient to risk rendering the Gov-

ernment itself odious; perhaps, foolishly thinking, that they can easily recover the lost affections and confidence of the people; and not appreciating, as they ought to do, the natural resistance to Government, which, in every community, results from the human passions, the degree to which this is strengthened by the *organized rivality* of State Governments; and the infinite danger that the National Government, once rendered odious, will be kept so by these powerful and indefatigable enemies.

They forget an old, but a very just, though a coarse saying, that it is much easier to raise the devil than to lay him.

Poor KNOX has come in for a share of their persecution, as a man who generally thinks with me, and who has a portion of the President's good will and confidence.

In giving you this picture of political parties, my design is, I confess, to awaken your attention, if it has not yet been awakened, to the conduct of the gentlemen in question. If my opinion of them is founded, it is certainly of great moment to the public weal, that they should be understood. I rely on the strength of your mind, to appreciate men as they merit, when you have a clue to their real views.

A word on another point. I am told that serious apprehensions are disseminated in your State, as to the existence of a monarchical party, meditating the destruction of State and Republican Government. If it is possible, that so absurd an idea can gain ground, it is necessary that it should be combated. I assure you, on my *private faith* and *honor*, as a man, that there is not, in my judgment, a shadow of foundation for it. A very small number of men, indeed, may entertain theories less republican than Mr. Jefferson and Mr. Madison; but, I am persuaded, there is not a man among them, who would not

regard, as both *criminal* and *visionary*, any attempt to subvert the Republican system of the country. Most of these men rather *fear* that it may not justify itself by its fruits, than feel a predilection for a different form; and their fears are not diminished, by the factious and fanatical politics, which they find prevailing among a certain set of gentlemen, and threatening to disturb the tranquillity and order of the Government.

As to the destruction of State Governments, the *great* and *real* anxiety is, to be able to preserve the National from the too potent and counteracting influence of those Governments. As to my own political creed, I give it to you with the utmost sincerity. I am *affectionately* attached to the Republican theory. I desire, *above all things*, to see the *equality* of political rights, exclusive of all *hereditary* distinction, firmly established by a practical demonstration of its being consistent with the order and happiness of society.

As to State Governments, the prevailing bias of my judgment is, that if they can be circumscribed within bounds, consistent with the preservation of the National Government, they will prove useful and salutary. If the States were all of the size of Connecticut, Maryland, or New Jersey, I should decidedly regard the local Governments, as both safe and useful. As the thing now is, however, I acknowledge the most serious apprehensions, that the Government of the United States will not be able to maintain itself against their influence. I see, that influence already penetrating into the National Councils, and preventing their direction.

Hence, a disposition on my part towards a liberal construction of the powers of the National Government; and to erect every fence, to guard it from depredations, which is, in my opinion, consistent with constitutional propriety.

As to any combination to prostrate the State Governments, I disavow, and deny it. From an apprehension, lest the Judiciary should not work efficiently or harmoniously, I have been desirous of seeing some national scheme of connection adopted, as an amendment to the Constitution; otherwise, I am for maintaining things as they are; though I doubt much the possibility of it, from a tendency in the nature of things towards the preponderancy of the State governments.

I said, that I was *affectionately* attached to the Republican theory. This is the real language of my heart, which I open to you, in the sincerity of friendship; and I add that I have strong hopes of the success of that theory; but, in candor, I ought also to add, that I am far from being without doubts. I consider its success, as yet a problem. It is yet to be determined, by experience, whether it be consistent with that *stability* and *order* in Government, which are essential to public strength, and private security and happiness.

On the whole, the only enemy which Republicanism has to fear, in this country, is, in the spirit of faction and anarchy. If this will not permit the ends of Government to be attained under it; if it engenders disorders in the community; all regular and orderly minds will wish for a change; and the demagogues, who have produced the disorder, will make it for their own aggrandisement. This is the old story.

If I were disposed to promote Monarchy, and overthrow State governments, I would mount the hobby horse of popularity; I would cry out, 'usurpation'—'danger to liberty,' etc., etc.; I would endeavor to prostrate the National Government—raise a ferment, and then 'ride in the whirlwind, and direct the storm.' That there are men acting with Jefferson and Madison, who

have this in view, I verily believe. I could lay my finger on some of them; that Madison does *not* mean it, I also verily believe; and I rather believe the same of Jefferson; but, I read him, upon the whole, thus, 'A man of profound ambition, and violent passions.'

You must be by this time, tired of my epistle. Perhaps I have treated certain characters with too much severity. I have, however, not meant to do them injustice; and, from the bottom of my soul, believe, I have drawn them truly; and that it is of the utmost consequence to the public weal, they should be viewed in their true colors. I yield to this impression. I will only add, that, I make no clandestine attacks on the gentlemen concerned. They are both apprised, indirectly, from myself, of the opinion I entertain of their views. With the truest regard and esteem.[22]

CHAPTER LXXVI.

This letter made its intended impression. It refers to the different opinions that prevailed as to the foreign policy of this country, the consequences whereof must now be traced in connection with the influences which the wayward and turbulent fortunes of France exerted over the early destinies of this Republic.

The habits of the American people, the laws of descent and distribution, the nature of the Government, all gave force to the Democratic principle, and all insured to the opposition, from their adulation to popular prejudices, ultimate success.

Whether the happiness diffused by the Federal administration, the restored dignity of the American character, the increasing importance of the nation, the removal of the most formidable causes of collision among the States by the steady operation of the general system, and by the adaptation to its action of the State politics, could long have resisted its disorganizing impulses, may well be doubted.

The adoption of the Constitution had been little less than a miracle. It would have required many miracles to have maintained the predominance of its founders.

Of this no individual in the United States was more fully aware than Hamilton. Gratified with the successful

working of the policy he had introduced, he may at times have indulged the hope of a generous mind in a happy issue to his exertions, but his habitual judgment forbade this hope. He labored the more to impart his own spirit to the institutions of the country, believing that even their fragments would attest his genius, and might become, if not models, beacons to a future age.

The modes of thought formed under the parent Government had yet an influence; the mass of the people were possessed of some property, were intent on acquisition, and the barriers to their industry were removed.

The dispersed population rendered it difficult for the disaffected to act in concert, but this had the injurious effect of rendering the propagation of information slow, and of weakening the influence of social intercourse. Nevertheless, the generation which had grown up in ignorance during the Revolution, was losing some of its lawless character; and, though under the new Constitution the progress was not rapid, there was a progress to better morals, to more temperate habits of thinking and acting.

The eminent virtues of Washington were appreciated. His character threw a panoply and a glory over the Government and over the people.

But an influence was at work which threatened all the establishments of the civilized world—that of the Revolution in France; the influence of an example to which there was no analogy in the circumstances of the United States that could render its application salutary or safe.

Other modern revolutions had occurred involving important consequences. That of Holland, in fifteen hundred and eighty-eight, taught how much a people would endure in resistance to bigoted oppression; how strong the vitality of race; how powerless mere force against the energies of a well-directed patriotism.

But the institutions to which it gave rise produced no sensible innovations in the minds of men. They were peculiar, but their peculiarity consisted in local modifications of pre-existing systems, varying their forms, but imparting no new principle of action.

That of England, in sixteen hundred and eighty-eight, was the exertion of the right of changing a dynasty for its gross violation of those privileges which the expanding intelligence of the nation had wrested from the Crown. But of all others, it was a change the most favorable to temperate liberty. It was a Revolution of the gentry, acting in concert with the mass of the people, for their common behefit. The great column of society was preserved and strengthened in its position by transferring a part of its weight from the top to the base; and against the before superincumbent pressure of the crown, the influence of property and numbers was increased, protected, poised, and made constant.

The very operation of this change was to prevent other changes, more sudden and violent, by interposing gradual and remedial checks; by giving each part of the altered system time to harmonize, and to adapt itself to the wants and feelings of that great insular nation.

Another century elapsed, and in seventeen hundred and eighty-eight, as though Providence chose to mark, by defined cycles of time, the results of his councils, and to teach, by strong contrasts, the most important lessons; two other great revolutions in Government occurred, destined to mould, for a long period, the fortunes of a large portion of the human race—those of the United States of America, and of France.

The situation of the English colonists on this continent presented a combination of circumstances, eminently propitious to what befell them. Though of various origin,

their pursuits exhibited few marked differences. They were either agriculturists, mechanics, or navigators. There were no distinct literary classes, few men of leisure, few theorists. The prevailing characteristics of the country were—"equality and philanthropy." *

The equal distribution of property had produced equal municipal laws. In the creation and administration of these laws, the whole people participated, and were accustomed to exercise a direct influence over the functionaries they employed. Their political education was in a school which taught them to revere the law. Their associations were all connected with events in the progress of their parent nation to liberty. They enjoyed the benefits of its experience without having much partaken of its collisions. The political storms that reached them were tempered by the interval of the Atlantic.

Nor had the Colonists suffered from long oppression. No distinction of ranks was known. There were no local artificial regulations of industry, no sudden changes of occupation, but constant employment adequately compensated. None of those causes existed which induce the mass to personify in a class the authors of their suffering. Hence there was little embittered feeling. With these advantages were united one of great moment, the general prevalence of the Protestant religion, administered by a pure and devoted clergy.

The great body of the people were as virtuous as the mass of any community can be, the majority of mankind being necessarily wanting in the refinement which, often as it embellishes vice, is essential to the highest virtue.

The influence which directed and controlled the political action of the Colonists, was also most genial. It

* Polybius, Lib. 2, § 38, "ισοτητι και φιλανθρωπια."

was in reality the influence of the best informed, of the most independent members of society, of practical men intent upon resisting positive ills, little sedulous of abstract good, of men who felt all the value of the great inheritance of civil and religious liberty they had derived from their ancestors, and were determined to defend it.

The qualities which gave this influence preserved it; owing to the public necessities, until the close of the Revolution. Then a new order arose—the order of mere politicians; the ignorantly confident; the idly busy; the timidly jealous; the boldly unscrupulous; those who consider the follies and vices of the human race, as a property.

The founders of that school, were men who, not content with an equality of rights, adopted as a cardinal maxim in their creed, the absolute equality of mankind; who teach that this is the groundwork and foundation of Liberty; and who only deny the induction, when enjoying power, that as government is an argument of the weakness of human nature, all government is usurpation. These men were not the proper fruits, they were the aftergrowths of the Revolution. Springing from the impotency of the Confederacy, they were nurtured and matured to a disproportionate and noxious importance.

The doctrines they taught were too acceptable not to be well and widely received; and the situation of France was precisely such as to give to them a fearful consequence.

Her antiquated systems and accumulated abuses were brought in full contrast with the buoyant youth and rising destinies of the Western Republic. Her exhausted treasury rendered her monarchy necessitous and dependent. A general peace gave her time to scrutinize and contemplate her condition, and during a sickly repose

she inhaled the poison which fevered her blood and ended in convulsions.

Her situation was in all respects the opposite of that of the United States. The latter exhibited man in the simplest form consistent with civilization. Nothing could be more artificial than the condition of France.

Her population had been little assimilated, notwithstanding the ancient date of her monarchy. They did not speak a common language, nor use a common coinage, nor had they a common law, but were educated under a policy in which loyalty was the substitute for patriotism, and which, much weakened in its influence, left the Government without its necessary support.

Her empire exhibited conflicting customs and discordant edicts or laws yet operating, though the causes of their existence, and the circumstances to which they were adapted, had ceased. In the administration of these laws the majority had no voice or part. The administration was arbitrary and unequal. There was a great nation, but in theory and in practice, there was no people.

A crowded nobility were the objects of hate. Of these, a few had the virtues of their class—the monarchy was incumbered by the many, who, seated near the steps of the throne, barred every access to untitled genius and ambition, and intercepted the clamors of those whom they oppressed.

The higher clergy were the fit successors of De Retz; of the inferior orders, many sympathized with their flocks, and almost admitted, that resistance to oppression was a duty of religion. The army, long the sure reliance of the crown, was itself the propagator of the popular opinions it had transplanted from America.

With all these sections of society, the many had cause of quarrel, for from all they had received injury; from

the nobles by direct oppression, from the army by exclusion from its honors, from a part of the clergy by their neglect of duty and lives of profligacy.

Thus situated, the state of France—the bequest of the errors, of the vices, of the crimes of preceding ages—called for change; and the first demand of a Representation of the people was welcomed by every patriot throughout the world.

But, in proportion as her systems were artificial, in the same degree it was necessary to her happiness, that the change should be gradual—that of her ancient institutions, enough should be left for remembrance, affection, and contignation.

While the wise and the good were seeking to limit the prerogative of the monarch by a large recognition of, and security to, popular rights; her literature, seeking revenge for the shackles it had long impatiently worn, formed an order of its own, of men, many of whom springing from the lowest places in society, brought with them a knowledge of all the injuries, and, unhappily, all the antipathies of their class.

These lettered theorists banded together, and disdaining to enjoy a permissive liberty, determined to flourish by excitement. To produce this, they exhausted all the artillery of genius. They built up dogma upon dogma. Increasing in boldness as they advanced, they gave an extravagant importance to their theoretical tenets; and, while flattering the mind of that impulsive nation with the cry of "Liberty and Equality," they rang an alarm which shook the aged Government to its foundations.

Other differences marked these cotemporaneous revolutions. That of the United States, was a mere secession from the parent country, uncomplicated by the disturbing questions as to the kind of Government to be substituted. It was necessarily Republican. That of France, was a

total change of her social system, affecting every interest, and every opinion in the State.

The colonists waged an open war under the direction of a general, but temporary council of their own choice. The object before them was simple and distinct—Independence. France, in the midst of the nations of Europe, was bridled, and checked, and embarrassed, in every stage of her progress.

Suddenly awakened to a knowledge of her wants, while surveying her internal condition, she beheld herself menaced by all the armed prejudices of the European Continent. Without time for composed action, she increased in desperation as she increased in strength. National pride, National security—an irresistible necessity forced her onward in her dreadful career; and the same open palm, which at first, was stretched forth for liberty, was seen to brandish the pike, and wave the torch against all social institutions.

The Parliament, called to relieve the necessities of the crown, becoming intractable, led to the assemblage of the nobles. This expedient only disclosed more fully the fiscal embarrassments, without producing relief. Resort was again had to a Parliament, and was again unsuccessful. Irritated by banishment, and rendered confident by concession, this body, at last concurring with public feeling, insisted upon the convocation of the States General.

The same period witnessed in the opposite hemispheres the opening of that council, and the mild inaugural address of Washington to the first Congress of the United States. Before that Congress closed its session, the States General had ceased; and the NATIONAL ASSEMBLY assumed the sovereignty of France.

These extraordinary events—the rapidity with which each had succeeded the other, the substitution of popular

institutions for one of the most arbitrary Governments in Europe, amazed the world. Dazzled not only with the great result, but with the manner in which it had been accomplished, the vast majority of men regarded it as the beginning of a new and immediately happy era.

From this prevalent delusion, two statesmen, whose reflections directed the policy of their respective nations at this important juncture, were conspicuously exempt—Burke and Hamilton. Edmund Burke, drawing his comprehensive conclusions from deeply philosophic views of history, but whose mind reposed too much upon the past, foresaw and depicted with a sublime prophetic genius, the terrible tragedy which was to follow, but did not look wisely beyond it.

Hamilton had grown up in the midst of a Revolution, had mingled too intimately with his fellow-men, and had measured too accurately the force of the passions, not to fear that they would prove too strong for the happiness of France; but firmly believing in the great law of progress, he would not despair.

His friend Lafayette had performed a conspicuous part in the late events. To him, who he knew was unequal to the station he then filled, he addressed the following deeply interesting letter, bearing date the sixth of October, seventeen hundred and eighty-nine.

"My dear Marquis,—I have seen with a mixture of pleasure and apprehension the progress of the events, which have lately taken place in your country. As a friend to mankind and to liberty, I rejoice in the efforts which you are making to establish it, while I fear much for the final success of the attempts, for the fate of those I esteem who are engaged in it, for the danger, in case of success, of innovations greater than will consist with the real felicity of your nation. If your affairs still go well,

when this reaches you, you will ask why this foreboding of ill, when all the appearances have been so much in your favor? I will tell you: I dread disagreements among those who are now united (which will be likely to be improved by the adverse party) about the nature of your Constitution; I dread the vehement character of your people, whom I fear you may find it more easy to bring on, than to keep within proper bounds after you have put them in motion; I dread the interested refractoriness of your nobles, who cannot all be gratified, and who may be unwilling to submit to the requisite sacrifices. And I dread the reveries of your philosophic politicians who appear in the moment to have great influence, and who being mere speculatists may aim at more refinement than suits either with human nature or the composition of your nation.

These, my dear Marquis, are my apprehensions. My wishes for your personal success and that of the cause of liberty are incessant. Be virtuous amidst the seductions of ambition, and you can hardly in any event be unhappy. You are combined with a great and good man; you will anticipate the name of Necker. I trust that you and he will never cease to harmonize.

You will, I presume, have heard before this gets to hand, that I have been appointed to the head of the finances of this country; this event I am sure will give you pleasure. In undertaking the task, I hazard much, but I thought it an occasion, that called me to hazard. I have no doubt that the reasonable expectation of the public may be satisfied, if I am properly supported by the Legislature, and in this respect, I stand at present on the most encouraging footing.

The debt due to France will be among the first objects of my attention. Hitherto it has been from necessity

neglected. The session of Congress is now over. It has been exhausted in the organization of Government, and in a few laws of immediate urgency respecting Navigation and Commercial Imposts. The subject of the debt, Foreign and Domestic, has been referred to the next session, which will commence on the first Monday in January, with instruction to me to prepare and report a plan comprehending an adequate provision for the support of the public credit. There were many good reasons for a temporary adjournment.

From this sketch you will perceive that I am not in a situation to address any thing officially to your administration; but I venture to say to you, as my friend, that if the instalments of the principal of the debt could be suspended for a few years, it would be a valuable accommodation to the United States. In this suggestion I contemplate a speedy payment of the *arrears* of *interest* now due, and effectual provision for the punctual payment of future interest as it arises. Could an arrangement of this sort meet the approbation of your Government, it would be best on every account that the offer should come unsolicited as a first mark of good will.

I wrote you last by M. De Varville, I presume you received my letter. As it touched some delicate topics, I should be glad to know its fate. Yours with unalterable esteem and affection.

P. S.—The latest accounts from France have abated some of my apprehensions. The abdication of privileges patronized by your nobility in the States General, are truly noble, and bespeak a patriotic and magnanimous policy which promises good both to them and their country."

Such, was his unsought, private, confidential opinion to a tried, distant friend on the great question of privileged orders.

From the moment the National Assembly was formed, a struggle commenced between its constituent parts for a division of the power it had usurped. The unsuccessful became its enemies. New combinations arose, and in the midst of the Revolution, a Constitution of Government was formed. Its structure ensured its failure.

The most important questions which had presented themselves to the mind of an American Statesman as to the foreign policy were now to be decided.

The defeat of the successive efforts of Madison to establish discriminating duties in favor of France have been related in the order in which they occurred. This result, it has been shown, was in entire accordance with Hamilton's opinions, and, in part, attributable to his influence.

The knowledge that Washington approved such discrimination, long the favorite system of Virginia, may have induced him to take the full views embraced in his cabinet opinion on the application of Lord Dorchester. These views may be supposed to have had weight with the President. The opening message at the third Session of Congress briefly indicated the necessity of circumspection.

The issue of the informal conferences with Great Britain has also been mentioned. It was resolved that the next advance should proceed from the British Court.

In this youthful period of the Republic, it was the part of wisdom, rather than of feeling, to wait events.

With the many, that will always be the preferred course which prompts to immediate action. Caution and courage in common minds are rarely convertible terms.

Jefferson saw the position in which the Administration stood, and he resolved to assume the attitude of a champion. Favors to France, injuries to England, were the maxims of his policy.*

* In reply to a letter of Madison, relating to the discrimination in favor "of Nations in Treaty," August 28, 1789, Jefferson, referring to the disposition

To Hamilton was left the more difficult and dignified office of watching intently over the interests of the people of the United States—of preserving their rights, their honor, and their peace, inviolate, by combating their passions.

The first official evidence of Jefferson's disposition was given in a report, as Secretary of State, of the eighteenth of January, seventeen hundred and ninety-one, founded on a representation from France, which claimed that the recent discrimination of Tonnage duties in favor of American vessels was a contravention of the Treaty of amity and commerce.

This Report recommended the abandonment of the established Revenue system as to that country by a reciprocal and perpetual exemption from duties on tonnage—placing *French vessels* on the footing of *natives*.

It submitted this proposition as one of two alternatives,

France, wrote—"I am sorry that in the moment of such a disposition any thing should come from us to check it. *The placing them on a mere footing with the English* will have this effect. When of two nations, the one has engaged herself in a ruinous war for us, has spent her blood and money to save us, has opened her bosom to us in peace, and received us almost on the footing of her own citizens, while the other has moved heaven, earth and hell to exterminate us in war, has insulted us *in all her* Councils in peace; shut her doors to us in every part where her interest would admit, libelled us in foreign nations, endeavored to poison them against the reception of our most precious commodities—to place these two nations on a footing, is to give a great deal more to one, than to the other, if the maxim be true that to make unequal quantities equal you must add more to one than the other. To say in excuse, that gratitude is never to enter into the motives of National conduct, is to revive a principle which has been buried for centuries with its kindred principles, of the lawfulness of assassination, poison, perjury, etc. * * * Let us hope that our new Government will take some other occasion to show, that they mean to proscribe no virtue from the canons of their conduct with nations. In every other instance, the new Government has ushered itself to the world as honest, masculine, and dignified."—Jefferson, iii. 99, ed. of 1854.

but with an obvious preference of the pretensions of France; and suggested, that the "*sacrifice*" might be made, "especially, if it can be so done as to give no title to other, the most favored, nations, to claim it, by declaring it to be in consideration of the favors obtained by *him* from France." !! *

Previous to the presentation of this Report, to the President, it had been submitted to Hamilton. He doubted its policy, for the reason, that "the tendency of the measure would be to place French vessels upon an equal footing with our own *in our ports*, while our vessels, in the *ports of France*, may be subjected to all the duties which are there levied on the mass of Foreign vessels; and consequently our own vessels in the carrying trade between the United States and France, would be in a worse situation than French vessels. This is the necessary result of equal privileges on one side and unequal on the other, in favor of the vessels of France." †

Two days after, he wrote to Jefferson, "I cannot forbear a conjecture, that the communications of the chargé des affaires of France are rather expedients to improve a moment in which it is perceived questions concerning Navigation are to be discussed, than the effects of serious instructions from his Court." He adds, "In general, I have doubts of the eligibility of *ex parte* concessions, liable to be resumed at pleasure. I had rather endeavor, by a NEW TREATY OF COMMERCE with France, to extend reciprocal advantages, and fix them on a permanent basis. This would not only be more solid; but it would, perhaps, be less likely, than apparently gratuitous and voluntary exemptions, to beget discontents elsewhere, especially,

* The arrets of 1787–8. For. Rel. Am. Arch, i. 109.

† Hamilton's Works, iv. 97, January 11, 1791.

(as ought to be the case,) if each party should be at liberty, for equivalent considerations, to grant like privileges to others. My commercial system turns very much on giving a FREE COURSE TO TRADE, and cultivating good humor with all the world; and I feel a particular reluctance to hazard any thing, in the present state of our affairs, which may lead to commercial warfare with any power; which, as far as my knowledge of examples extends, is commonly productive of mutual inconvenience and injury, and of dispositions tending to a worse kind of warfare. Exemptions and preferences which are not the effect of treaty, are apt to be regarded by those who do not partake in them, as proofs of an unfriendly temper towards them." *

A second Report was presented by Jefferson to the Senate, early in the following month,† which covered a letter from the American Agent at Paris, enclosing a copy of the tariff then in discussion by the National Assembly, which would have revoked the decrees issued at his instance, during his recent embassy.

Restitution of the tonnage Duties which had been paid by French vessels in this country was claimed; and intelligence ‡ was received, soon after, that France had imposed discriminating duties, the effect of which would be to exclude all American vessels from her ports.

Jefferson pronounced the procedure of France "such an act of hostility against our navigation, as was not to have been expected from the friendship of that nation." "It is as new," he wrote, "in its nature, as extravagant in its degree, since it is unexampled, that any nation has endeavored to wrest from another the carriage of its own produce, except in the case of their colonies. The British

* Hamilton's Works, iv. 98, January 13, 1791. † February 2, 1791.

‡ Lafayette to Washington.

Navigation Act, so much and so justly complained of, leaves to all nations the carriage of their own commodities free. * * * They complain that the foreign tonnage is higher than the domestic. If this complaint had come from the English, it would not have been wonderful, because the foreign tonnage operates really as a tax on their commerce, which, under this name, is found to pay sixteen dollars and fifty cents, for every dollar paid by France. It was not conceived that the latter would have complained of a measure calculated *to operate so unequally* on her rival, and I still suppose she would not complain, if the thing were well understood."* Soon after—he wrote, "It is impossible to let it go on without a vigorous correction"—and again, "A moment's consideration must convince anybody, that no nation upon earth ever submitted to so enormous an assault on the transportation of their own produce."†

With these opinions his public policy may be compared. On the same day on which he had given to Congress the information of this offensive measure of France, he submitted to the House of Representatives his Report on the Fisheries.‡

In this Report, although he admitted, that the navigation of France "from being the most economical had become the most expensive of any nation,"—though he stated "we should lose" during a European War, "the carriage for belligerent powers, which the *neutrality* of our flag would render an *incalculable* source of profit;" though Great Britain had recently appointed a Consul

* Jefferson to Short, July 28, 1791: Jefferson's Works, iii. 116, Randolph ed.

† Ibid., iii. 124–5.

‡ American State Papers, Commerce and Navigation, i. 8, February 4, 1791.

General; and, it was known, was about to send a minister to this country; * yet he declared, that it could not "be announced, that there is any disposition on her part to arrange this or any other matter, to mutual convenience" —and advised, in the face of these obnoxious measures of France, in order to favor her "expensive navigation," that the United States should resort to counter regulations to exclude the vessels of Great Britain. These cotemporaneous propositions exhibit his system.

In the same month, by his advisement, the President announced to Congress, that, from the informal conferences at London, he did not infer any disposition on the part of England to enter into any arrangements, merely commercial. The Senate evinced no desire to act upon the proposed favors to France. A Committee of the House of Representatives, it has been seen, recommended a Navigation Act. This act would have made no discrimination in favor of France, nor against Great Britain.

This was not the policy of Jefferson. His friends strenuously urged the impracticability of passing such an act at so late a period of the session, and proposed a reference of the subject to the Secretary of State. He was directed to report "the nature and extent of the privileges and restrictions of the commercial intercourse with foreign nations, and *such measures* as he shall think proper to be adopted for the *improvement* of the Commerce and Navigation of the United States."

To prepare the way for the hostile measures he contemplated towards England, he transmitted copies of his commercial project, which he remarked,† "will deeply strike at that of Great Britain," to the Diplomatic Rep-

* Tucker's Jefferson, i. 338—states that an exchange of Ministers was proposed by Major Beckwith.

† March 17, 1791.

resentatives of the United States in Europe. "We would not wish," he wrote, "to be declared the *exciters* of such a concert of measures, but we have thought it expedient to *suggest informally* to the Courts of France, Spain, and Portugal, the measure we propose to take; and to leave with them to decide on the motives of their own interest how far it may be expedient for them to adopt a similar measure."

Obnoxious as the recent decrees of France are admitted by him to have been, not a whisper of dissatisfaction is discovered in the official communications of the Secretary of State to Congress.

"If,"* he said, as to the obvious right to discriminate in favor of American tonnage; "If, it is to be insisted on in opposition to the construction of the Treaty urged by the Court of France, and no relaxation is to be admitted; an answer shall be given defending that construction, and explaining, in as friendly terms as possible, the difficulties opposed to the exemption they claim." Nor as to her, would he have objected to "a reciprocal and perpetual exemption from tonnage."

But as to Great Britain, whose Navigation Act was much less objectionable, she was to be met in the very moment a negotiation was about to be commenced, by counter restrictions, a co-operation in which, he looked to as, "a remarkable and memorable epoch in the history and freedom of the Ocean."

Under such circumstances, the situation of an American Statesman, only solicitous for the true interests of his country, was full of difficulties. All that Hamilton could do, was done.

On the day† following that on which the President,

* For. Rel., i. 3 American State Papers. † February 15.

acting on a Report of Jefferson, the fifteenth of December previous, announced to Congress the opinion, that Great Britain entertained no disposition to enter into commercial relations with this country,—the Secretary of the Treasury submitted a return of its exports, showing, that, while France and her possessions received a fifth, to Great Britain and her American dependencies, nearly one half of the whole amount of those exports proceeded.

Having informed himself accurately of the commercial policy of the different nations with whom the United States had intercourse, he combated in the cabinet the opinions advanced by the Secretary of State, and sought to impress upon the President, and upon the Legislature, those, which he conceived, the actual state of their commercial relations, and the real interest of this nation, warranted and demanded.

To gain time, and to mature the opening convictions of the intelligent, were the objects of his assiduous efforts.

But nations, when they reason, too often reason to justify their passions. How strong the hostility of the American people towards Great Britain was, has been shown in the past sketch of the history of the Confederation.

To the contest of arms a contest of commercial restrictions had succeeded. Thus time had not softened the asperities which grow out of a state of war; and the National Government commenced its career with the multiplied difficulties of reconciling the different States of the Union to each other, and of reconciling, with the maintenance of commercial independence, the preservation and extension of its commerce.

Indeed, the Federal Constitution was, by some, alleged to owe its existence to the restrictions of Great Britain; and, under such a narrow view, it was claimed, that this

Government entered upon the performance of its great offices, *pledged* to wage a commercial warfare with that nation.*

England also had her pride and her prejudices. She had been defeated—defeated after a long, an arduous, an unexpected resistance. She had been defeated on grounds, involving her character as the mistress of an extensive Empire. She had been defeated in a question as to which the opinion of the world was against her, and thus lost much of her political and moral force. But the most galling of all the circumstances of the contest was, she had been defeated in a civil war by the instrumentality of a hated rival. She had descended, in a few years, from the most commanding position she ever held, and saw that rival taking her place.

The contest also had given birth to a constellation of Republics, attracting the hopes of mankind to a system differing from her own, and thus endangering, perhaps at a remote period, her ancient institutions. The conflict had engaged the prejudices of her people. Its result may have inspired a deeper feeling in the breasts of her sagacious Statesmen. Hence it was supposed, that they would see with reluctance, the particular States consolidated into one great energetic Republic.

How far such views may have operated, is a speculative question. It is the office of history to relate and to review facts; and upon such a review, a conclusion is here arrived at, contrary to the prevailing opinion of this country. It is, that the causes which induced Great Britain to pause before she adopted a definite commercial

* Referring to the complaints as to her commercial system, Madison remarked, "The Federal Constitution originated in those complaints, and had been established with the known view of redressing them." "Political Observations," by Madison.

policy towards the United States, were such as not necessarily to imply any hostility in her counsels.

Before the definitive Treaty of Peace was concluded, her cabinet had intimated, through Hartley, a desire to form a commercial treaty, on principles of perfect reciprocity; but, as has been seen, the powers previously intrusted to Adams, were then suddenly revoked at the instance of Madison, and a proposal to renew them was rejected.

A procedure of so decided a character produced its natural impression on the British Government. The navigating interest seized the opportunity, and, as has been related, temporary regulations of intercourse with this country, favorable to that interest, were adopted, waiting until more temperate councils should prevail in America.

To meet the restrictions of England by countervailing regulations, the recommendation was made by Congress to the States, to vest in them for a limited time, power to prohibit trade with countries not in treaty. The recommendation is seen to have failed.

If, during this period, seeing that she had the American commerce at her command, no disposition had been felt by her to treat with a confederacy which had not fulfilled, and was unable to fulfil its treaties—this should not be ascribed to hostility.

Recent occurrences justified her distrust of the temper of this country. Although the Congress of the Confederation had, in April, seventeen hundred and eighty-seven, addressed a circular letter to *all* the States, in order to relieve the pride of those which had violated the treaty of peace—recommending a repeal in general terms of all laws repugnant to it; although the Federal Constitution had been proposed for adoption in the following September, which declared that all treaties "shall be the supreme

law," yet, before the lapse of three months, Virginia enacted a law, in form, repealing all acts which prevented the collection of debts in violation of the treaty; but, subject to a proviso, that this repeal be suspended until the Governor and Council of that State should declare, that Great Britain had delivered up the posts, and made compensation for the deportation of the negroes.

The acts she proposed to repeal were in violation of the Treaty and of the articles of the Confederation; yet, this then important State, at the moment when the Constitution was submitted to the people for its ratification, gave new force to her unwise legislation; and submitted, by a positive enactment, the decision of the question, whether the Treaty had been fulfilled, not to the Congress of the United States, but to her own Executive authorities. This enactment was still in force:

The adoption by the House of Representatives of Madison's discriminating duties in favor of "*nations in treaty*" was in conformity with the policy of Virginia, and was an exhibition to Great Britain of the ascendency of the policy of that State in one branch of the National Councils.

Under these circumstances, the course pursued by England was such as prudence would dictate. She referred the inquiry to her Privy Council as to the state of the commerce and navigation, the provisions of the Constitution, the character of the jurisprudence of this country, its treaties, and its recent revenue acts.

Instructions were given by the Duke of Leeds, then Secretary of Foreign Affairs, to the British Consul General, Sir John Temple, stating the heads of inquiry; which were communicated to Jay, then Secretary of Foreign Affairs, and by him were submitted to the President. This inquiry embraced the trade; tonnage duties; port

charges; import duties; number of vessels built and where; staple commodities; manufactures; emigrations; population and judicial system of the United States.

A full report, drawn by Lord Hawkesbury, was made on all these heads. It showed the decrease of tonnage in the direct trade with the United States, and in that with her West India Colonies—also the decrease of exports and imports in the same direct trade, the compensating increase of imports by her West Indies, and a large decrease in their exports.

The discrimination of tonnage duties made by the United States in favor of their own bottoms was stated; but it was admitted not to be a ground of complaint, as the United States were an independent nation. It proposed, that the alien duties be mutual, or mutually abolished. As to "*commerce*," it advised, that the present system ought not to be disturbed; but that, as to any proposition as to a freer participation in the West India trade, the answer must be, that "the demand cannot be admitted as a subject of negotiation." As to "*maritime regulations*," they should be the same as in other treaties, but none to be assented to by which "the United States could protect enemies' property during war." Retaliation as to American discriminations, he advised, ought not to be resorted to before a negotiation should be attempted "to produce a fair and equitable plan of accommodation, and a liberal system of commerce and navigation, founded on reciprocal advantages."

An inquiry so extensive required time. Distrustful of the impressions which Morris might give to his Government, and to prevent dissatisfaction with the delay, soon after this Report was made, Pitt instructed General Maunsell to deliver a message to the Secretary of the Treasury, the office of Secretary of State not having

been filled, stating, "that Great Britain was anxious to establish and preserve the strictest amity and friendship with the United States; and that a minister would be appointed." The mission was offered to several persons, but finally Hammond was accredited to this country.* De Moustier had been recalled by France at the instance of the American Government. He was succeeded in the embassy by Ternant, who arrived at Philadelphia a short time before the British Minister.

* After mentioning a proposal by Beckwith of an exchange of Ministers, it is stated in the Life of Jefferson, by Tucker, i. 338: "One was *forthwith* sent from the United States, but the Ministry of England, under the influence of pride or ill humor, suffered *three* years to elapse without reciprocating this mark of national courtesy." George Hammond arrived in the United States in August, 1791. Thomas Pinckney was *not* appointed until the following year, and arrived in London in July, 1792. Morris was an *informal agent* for a short period, without powers; and Beckwith's visit, though more indirectly authorized, took place.

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